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Sustainable development

Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development

Report of the Secretary-General**

Summary

The present report, prepared pursuant to General Assembly resolution 59/227, provides an update on actions taken by Governments, organizations of the United Nations system and major groups in advancing implementation of sustainable development goals and targets, including through partnerships for sustainable development.

The report contains a summary of the outcome of the work of the Commission on Sustainable Development at its policy session and a brief evaluation of the first two-year cycle of the Commission's multi-year programme of work. The report also provides a snapshot of activities at the regional and country levels, as well as ongoing inter-agency activities in ensuring a coordinated follow-up to the World Summit on Sustainable Development. The report also reports on the progress made in advancing partnerships for sustainable development and in further integrating major groups into the work of the Commission on Sustainable Development. The report recommends that Governments, organizations of the United Nations system and major groups continue to support the Commission on Sustainable Development, its ongoing reform and its work aimed at expediting progress in the implementation of its mandate.

* A/60/150.
** Submission of the present report was delayed in order to incorporate updated information.

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I. Background

1. In its resolution 59/227 of 22 December 2004, the General Assembly reaffirmed its commitment to implement Agenda 21,[1] the Programme for the Further Implementation of Agenda 21[2] and the Plan of Implementation of the World Summit on Sustainable Development (the Johannesburg Plan of Implementation).[3] The Assembly reiterated that sustainable development is a key element of the overarching framework for United Nations activities, in particular for achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration.[4] The Assembly called upon Governments and organizations at all levels, as well as major groups, to undertake results-oriented initiatives and activities to support the work of the Commission on Sustainable Development and to promote and facilitate the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation, including through voluntary multi-stakeholder partnership initiatives.

2. In the same resolution, the General Assembly, inter alia, requested the Secretary-General to continue his efforts to strengthen system-wide inter-agency cooperation and coordination and welcomed the contributions of the regional commissions to the work of the Commission on Sustainable Development.

3. The present report has been prepared pursuant to General Assembly resolution 59/227 in order to provide an update on progress in its implementation. It should be read in conjunction with other reports submitted under the agenda item on sustainable development, including those related to the United Nations Environment Programme (UNEP), the United Nations Human Settlements Programme, UN-Habitat, the United Nations Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa and the International Decade for Action, "Water for Life", 2005-2015, as well as the report on matters relating to small island developing States.

II. Follow-up action taken at the intergovernmental level

4. Member States remain engaged in the intergovernmental process relating to sustainable development, as evidenced by their active participation in the work of the Commission on Sustainable Development, the Economic and Social Council and the regional commissions, among other bodies.

5. As the high-level intergovernmental body within the United Nations on sustainable development, the Commission continued its thematic focus on water, sanitation and human settlements during its policy year. Building upon the outcome of its intergovernmental preparatory meeting held in February 2005 and the review session in 2004, at its thirteenth session the Commission focused on practical and action-oriented policy decisions to speed up implementation.

A. Outcome of the thirteenth session of the Commission on Sustainable Development

6. Under the Commission's multi-year programme of work, its sessions are organized in two-year implementation cycles, consisting of a review session in the first year and a policy session in the second. The thirteenth session, which was a policy session, marked the completion of the first two-year implementation cycle.

7. More than 2,000 participants attended the session, including some 100 ministers with portfolio responsibilities for water, health, housing, finance, trade and development cooperation, as well as ministers of the environment. The active participation of ministers demonstrated the continuing political commitment of Governments to the work of the Commission. Along with a Partnerships Fair and Learning Centre, the thirteenth session of the Commission featured a regional perspectives meeting and a panel discussion of ministers and experts, active in the field of finance and development cooperation, co-moderated by the Minister of Finance of South Africa and Minister for International Development of Norway.

8. Some 600 representatives of major groups contributed to the discussions, making over 100 interventions during interactive discussions. With the broad engagement of major groups, the thirteenth session of the Commission demonstrated that the participation of representatives of major groups could be more effectively integrated into the work of the Commission (see sect. VI below).

9. Building on the work of its twelfth session (a review session) and its intergovernmental preparatory meeting, which produced a Chairman's summary and a user-friendly matrix of policy options, at its thirteenth session the Commission adopted policy decisions aimed at accelerating progress in implementation in the areas of water, sanitation and human settlements. Its decisions set forth approximately 30 policy options and some 100 practical measures and actions.[5]

10. To accelerate progress in providing access to safe drinking water, the Commission called for: instituting economic incentives to encourage the participation of small-scale water service providers; implementing affordable water tariffs to contribute to the financial sustainability of water services; and targeting subsidies for the poor, including connection costs. The decisions also set out specific actions for better water management, including more efficient irrigation, and for training farmers and water users associations in efficient water use.

11. With regard to sanitation, the Commission stressed the need for establishing an institutional home for the issue and giving it priority in national development plans and budgets. In its decisions, the Commission further emphasized measures to target investment to areas of greatest need and greatest impact, such as schools, work places and health centres and to assess the health impact of the lack of sanitation at the community level. Also highlighted was the need for financial and technical assistance to national and local authorities in deploying effective and environmentally sound sewerage systems and for the treatment and reuse of wastewater.

12. Regarding human settlements, the Commission called on Governments, with assistance from the international community, to design pro-poor policies with a focus on tenure security and access to affordable serviced land in order to improve access of the poor, in particular slum dwellers, to decent and affordable housing and

basic services. The decisions of the Commission also outlined actions aimed at giving particular attention to the equal rights of women to own and inherit land and other property and to gain access to credit markets. Also emphasized were practical measures designed to incorporate employment and enterprise development policies into national planning and slum prevention and upgrading programmes and to provide education and vocational training to women and youth with a view to improving their access to decent jobs. Governments were also encouraged to promote public-public and public-private partnerships for financing and developing infrastructure and affordable housing.

13. To maximize the impact of those measures and actions in all three areas and to increase their synergy, the Commission adopted measures to address the interlinkages among water, sanitation and human settlements and to improve national coordination. The decisions also contain an innovative voluntary monitoring mechanism by which the Commission requested the Secretariat to update, on a regular basis, policy options and practical measures and to develop web-based tools to disseminate information on implementation and best practice.

14. The Commission also agreed on specific follow-up action in relation to small island developing States, deciding to devote one day of its future review sessions to the implementation of the Mauritius Strategy. The Commission further decided to submit its decisions to the Economic and Social Council as a significant contribution to the High-level Plenary Meeting of the General Assembly in September 2005.

15. Viewed as a continuum, the twelfth and thirteenth sessions of the Commission, including the intergovernmental preparatory meeting held in February 2005, which generated a Chairman's summary on policy options and its user-friendly matrix, successfully delivered what was envisaged at the eleventh session of the Commission, that is, identifying obstacles and constraints and deciding on practical measures to address them to advance implementation.

16. During the two-year cycle, close to 1,000 participants attended more than 30 courses in the Learning Centre as part of the capacity-building activities. The Partnerships Fair provided an important venue for networking among partners and for exchanging lessons learned and best practices. The number of partnerships registered with the Secretariat has increased from 235 in 2003 to over 300 (see sect. VII below).

17. The challenge ahead is to ensure effective follow-up to the policy decisions on water, sanitation and human settlements and to continue refining the methods of work of the Commission with a view to further enhancing its impact on implementation. The lessons learned will feed into the preparations for the second implementation cycle, which will address energy for sustainable development, industrial development, atmosphere/air pollution and climate change.

B. Economic and Social Council

18. At the World Summit on Sustainable Development, member States called on the Economic and Social Council to make full use of its high-level, coordination, operational activities and general segments to effectively take into account all relevant aspects of the work of the United Nations on sustainable development.

During its 2005 substantive session, the Council devoted its high-level segment to the topic of "Achieving the internationally agreed development goals, including those contained in the Millennium Declaration, as well as implementing the outcomes of the major United Nations conferences and summits: progress made, challenges and opportunities". During their deliberations, members of the Council highlighted the connections among the social, economic and environmental dimensions of the internationally agreed development goals and underlined the need for promoting an integrated and coordinated approach to their implementation.

19. The coordination segment of the Economic and Social Council focused on the implementation of the agreed development goals and the relevant role of the United Nations system at the international and country levels. The deliberations complemented the discussions at the high-level segment and contributed to the thematic coherence among the different segments of the Council's session. Member States noted that the Council is especially well placed to serve as a platform for systematic and comprehensive monitoring of overall progress in implementation and stressed the Council's role in providing guidance to the United Nations funds and programmes and specialized agencies in implementation.

20. The Council's general segment reviewed, inter alia, the outcomes of the work of the Council's functional commissions, including that of the Commission on Sustainable Development at its thirteenth session. During their deliberations, Member States stressed the need for the provision of means of implementation, including official development assistance and technology transfer, in order to achieve sustainable development. The importance of taking stock of the outcome of the work of the Commission at its thirteenth session was also emphasized with a view to guiding the Commission's work at future sessions. Member States also called upon the functional commissions to take into account all aspects of sustainable development, including the social dimensions, in their programmes of work.

III. Inter-agency cooperation and coordination

21. The United Nations System Chief Executives Board for Coordination (CEB) continues to take the lead in coordinating system-wide activities in sustainable development. Through its High-level Committee on Programmes, CEB provided overall guidance to the work of UN-Water, UN-Energy, UN-Oceans and other inter-agency cooperation initiatives in sustainable development.

22. Since the World Summit on Sustainable Development, UN-Water had initiated several activities based on the thematic priorities for its work. These priorities include water scarcity and pollution; sanitation, safe drinking water and health; gender mainstreaming in water and sanitation; integrated water resources management; transboundary water issues and disaster reduction. In 2005, UN-Water reviewed the progress on the development of the second edition of the *World Water Development Report* (due out in 2006) and issues related to the programme of work for the Decade for Action: "Water for Life" 2005-2015.

23. In April 2004, the High-level Committee on Programmes endorsed the terms of reference and work programme of UN-Energy (http://esa.un.org/un-energy/). At its first meeting in July 2004, UN-Energy elaborated its future work plan and modalities for interaction with non-United Nations stakeholders. Since then,

UN-Energy had undertaken several initiatives, including the launching in July 2005 of a paper on the energy challenges for achieving the Millennium Development Goals.

24. As the inter-agency coordination mechanism on oceans and coastal issues, UN-Oceans (http://www.un-oceans.org) held its first meeting in January 2005 and agreed to set up four time-bound task groups, each coordinated by a lead organization, in accordance with the guidelines of the CEB High-level Committee on Programmes. UN-Oceans will also continue the inter-agency work of overseeing the management and development of the United Nations Atlas of the Oceans (http://www.oceansatlas.org/), a web-based information system. In addition, several member organizations of UN-Oceans will participate in the International Conference on Integrated Ocean Policy, scheduled to take place in Lisbon, in October 2005.

25. The CEB High-level Committee on Programmes also endorsed the 10-year framework of programmes on sustainable consumption and production as the basis for inter-agency cooperation in this area. The Department of Economic and Social Affairs, in cooperation with the United Nations Environment Programme (UNEP), and with the participation of other United Nations organizations, held the first international expert meeting on the ten-year framework in Marrakesh, Morocco, in June 2003, launching the Marrakesh Process. Regional meetings had since been organized by the Department of Economic and Social Affairs and UNEP in the Asia-Pacific region, in Latin America and the Caribbean and in Africa and Europe. The second international expert meeting on the ten-year framework/Marrakesh Process will be held in Costa Rica in September 2005.

IV. Regional activities

26. The United Nations regional commissions and offices, regional development banks and other regional organizations continue to contribute to regional implementation of sustainable development goals and targets. All five regional commissions have developed priority programme activities in sustainable development. The Economic Commission for Europe has stressed the importance of introducing the outlook for sustainable development in all relevant activities of the Commission. Ongoing activities include the development of standards and recommendations in sustainable transport, promotion of energy efficient technology and energy efficient investment projects and promotion of sustainable forest management.

27. The Economic Commission for Africa has established its own Sustainable Development Division for servicing its Committee on Sustainable Development and for implementing programme activities in support of sustainable development in Africa. In 2005, among other regional initiatives, the Commission released its inaugural issue of *Africa's Sustainable Development Bulletin*. The Commission also continued to implement programme activities in fostering the African "green revolution", strengthening regional cooperation in water resources management and in monitoring regional trends in sustainable development.

28. The Economic Commission for Latin America and the Caribbean continued its implementation activities in 2005 across several areas of sustainable development. In March 2005, the Commission, in collaboration with the World Health

Organization (WHO), organized a meeting on social determinants of health. Among other activities, it sponsored a course on geothermal energy and organized a regional seminar on municipal financing and urban poverty, a workshop on future transport challenges and an international meeting on modernization of water law.

29. Through its Sustainable Development and Productivity Division, the Economic and Social Commission for Western Asia pursues an integrated approach to sustainable management of water, energy and other resources and production sectors. It strives to increase the awareness of decision makers on sustainable development practices while emphasizing the need for identifying appropriate solutions for the utilization of water and energy resources. Among other activities, it contributed to an Arab regional workshop on national sustainable development strategies and indicators of sustainable development.

30. The Economic and Social Commission for Asia and the Pacific has continued to implement a broad range of programme activities in support of sustainable development in the region, including through its Environment and Sustainable Development Division. Among other activities, it organized a number of national workshops on integration of energy and rural development policies and programmes. It is planning to organize an expert meeting on promotion of sustainable consumption patterns through cultural values and traditional lifestyles in the region. In March 2005, the Commission also convened its Ministerial Conference on Environment and Sustainable Development in Asia and the Pacific, focusing on green growth.

31. During both the intergovernmental preparatory meeting for the thirteenth session of the Commission on Sustainable Development and the session itself, representatives of the secretariats of regional commissions and the regional bureaux of the United Nations Development Programme (UNDP), as well as the African Development Bank, participated in regional perspectives discussions and contributed to an improved understanding of policy options and practical measures that address region-specific challenges and circumstances.

V. Country initiatives

32. Since the holding of the World Summit on Sustainable Development, member States have made available a significant amount of national information to the Commission on Sustainable Development, showcasing voluntary commitments, case studies and best practices in sustainable development. As implementation at the country level accelerates, such information allows Governments and other actors involved in the process to exchange lessons learned and to benefit from each other's success stories.

33. One key lesson that has emerged from such information is the crucial importance of political commitment. Following the World Summit on Sustainable Development, Senegal established the Ministry of Prevention, Hygiene Promotion and Sanitation (Ministère de la Prévention, de l'Hygiene Publique et de l'Assainissement) as the ministerial-level institutional home for addressing sanitation issues. This led to a series of initiatives, including a recent launching of wastewater collection networks in the country. Senegal intends to set up sanitation networks in all secondary towns by 2010, including wastewater recycling and lagoon stations for the re-use of processed water in agriculture and construction. By

2015, Senegal aims to implement rural sanitation programmes and to make adequate sanitation available to about 80 per cent of the population.

34. Other countries have undertaken legislative measures to advance sustainable development. Turkey recently embarked on the drafting of a law to increase the renewable share in electricity generation and to increase private sector investments. While the draft law has yet to be enacted, applications from the private sector to the State Hydraulic Works and Energy Market Regulating Authority to implement renewable energy projects has already surged in anticipation of its entry into force.

35. The Swedish Parliament adopted environmental quality objectives relating to 15 areas, with a view to establishing an ecologically sustainable country over the long-term. Targets for 14 of the 15 areas are set for 2020 (for climate, the target is 2050). All sectors are expected to contribute to the achievement of the objectives. With respect to air quality, a number of steps have been taken to reduce emissions, such as introduction of fees on emissions of nitrogen oxides and stricter requirements on emissions from industrial activities.

36. In addition to legislation, Governments depend on national sustainable development strategies to provide overall frameworks for implementation efforts. The United Kingdom of Great Britain and Northern Ireland launched its new strategy for sustainable development, "Securing the Future", in conjunction with a strategic framework in March 2005. The strategy takes account of developments since the 1999 strategy, both domestically and internationally; the changed structure of Government in the United Kingdom with the devolution of government to Scotland, Wales and Northern Ireland; and greater emphasis on delivery at the regional level and the new relationship between government and local authorities.

37. France initiated a project on the peer review of national strategy for sustainable development with the objective of developing and testing a methodology for such reviews. In February 2005, a workshop was held in Paris to exchange experiences and share lessons learned. Representatives from four peer partner countries (Belgium, Ghana, Mauritius and the United Kingdom), including representatives from civil society and international organizations, attended the workshop (see http://www.un.org/esa/sustdev/natlinfo/nsds/peer_review.htm).

38. In advancing implementation, an increasing number of Governments are tapping into private sector resources through partnerships. For example, the Government of Qatar, working with the Qatar Chamber of Commerce and Industry, established the Qatar Industrial Manufacturing Company to promote small and medium-sized enterprises and downstream industries by stimulating and encouraging the role of the private sector and its investment in industrial development. The programme has been highly successful and significant funds have been made available for the development of small and medium-sized enterprises.

39. In Australia, a programme called "Greenhouse Friendly" provides businesses with an opportunity to market greenhouse-neutral products or services, deliver greenhouse gas abatement and give Australian consumers greater purchasing choices. Under a rigorous certification process, the "cradle-to-grave" greenhouse gas emissions are fully offset by accredited greenhouse abatement projects. Greenhouse Friendly certification is provided only after an objective and independent verification process. To be eligible for accreditation under the

Greenhouse Friendly programme, abatement projects must generate permanent, verifiable greenhouse gas emission reductions, avoidances or sequestration.

40. In Lithuania, a cleaner production programme is being implemented with support from the Norwegian Government to improve environmental performance, competitiveness and regulatory compliance of industry. The programme also aims to increase resource efficiency and better management by introducing the concept of cleaner production in participating industrial companies and to strengthen the capacity of local partners. Through this programme, 125 representatives from industry and from governmental institutions have been trained and certified as cleaner production experts.

41. The European Commission, as part of the Johannesburg Renewable Energy Coalition, is sponsoring the development of an innovative public-private financing mechanism to enhance access to affordable risk capital by renewable energy business and project developers. The Global Renewable Energy Fund of Funds should help close the financing gap for developing renewable energy markets and services worldwide.

42. In addition to public and private partnerships, donor Governments have provided support to developing countries in support of implementation activities. Uganda, with the support of Norway, launched an electrification programme in rural areas, where only 3 per cent of the population has access to stable electricity supplies. The programme aims to connect 400,000 households to the power grid over a 10-year period. Environmental impact assessments are under way to ensure that all environmental and socio-economic issues are managed in a sustainable manner.

43. Missions of the United States Agency for International Development (USAID) in South Africa, India, the Philippines and Morocco are using credit guarantees to direct bank loans to municipalities or water authorities, support bond issuances by water authorities and promote the extension of loans for rehabilitation and expansion of existing water facilities. USAID projects in Egypt, India and South Africa will mobilize private sector financing for municipalities and water authorities to purchase water meters, wastewater equipment, upgraded technologies and ancillary facility services.

44. Some implementation initiatives have benefited from the coordinated support of both bilateral and multilateral organizations. For instance, the School Sanitation and Hygiene Education programme, supported, inter alia, by UNICEF, the International Water and Sanitation Research Centre, Oxfam (UK) and the Water Supply and Sanitation Collaborative Council, was originally started as a global pilot project in countries such as Burkina Faso, Colombia, Nicaragua, Nepal, Viet Nam and Zambia. It has provided limited funding for physical improvements in sanitation facilities in 10 to 20 schools per country, but it has helped catalyse resource mobilization for water and sanitation improvements in more than 11,000 schools. A pilot project in Malawi has evolved into a programme aiming to reach one quarter of the country's schools. In Ethiopia, non-governmental, multilateral and bilateral organizations have united around a common aim to improve water and sanitation in 60 per cent of the primary schools by 2007. The School Sanitation and Hygiene Education programme has been extended to more than 70 countries in the past five years (see http://www.un.org/esa/sustdev/csd/csd13/casestudies/case_studies_ sanitation.htm).

VI. Major groups

45. Major groups continue to play multiple roles in sustainable development at various levels. They utilize their expertise and knowledge to promote education in sustainable development, raise awareness of social, economic and environmental issues and monitor progress towards the implementation of sustainable development. They also contribute to implementation through participation in their own initiatives and in partnerships for sustainable development.

46. The high level of engagement by major groups in the work of the Commission during its twelfth session was carried forward as the Commission continued to provide opportunities for major groups to participate in the second half of the two-year cycle. Building on the outcome of the review year, the Commission invited major groups to share their views in the policy year during discussions held on policy options and possible actions to overcome key constraints and obstacles related to water, sanitation and human settlements.

47. For the intergovernmental preparatory meeting, major groups prepared papers outlining their priorities for action relevant to the themes of water, sanitation and human settlements, which were made available in the six official languages of the United Nations. On the first day of the meeting, the Commission held a two-hour session during which major groups presented the views contained in their papers. An integrated approach was maintained during the thematic discussions held throughout the session, with each segment including at least two interventions by major groups. During the closing plenary meeting all nine major groups were given an opportunity to provide final comments.

48. In addition, major groups continued to interact with experts and delegates throughout thematic discussions. When the Chairman's draft decision text was introduced, the major groups were given the unprecedented opportunity to comment on it. They later joined ministers in a dedicated interactive dialogue during the high-level segment, which focused on turning political commitments into action. Owing to protracted negotiations on the final day of the session, no time was available for major groups to make closing statements, but these statements were later made available on the website of the Commission's secretariat.

49. Both the intergovernmental preparatory meeting and the thirteenth session of the Commission maintained the level of full engagement of major groups in its work. A total of more than 600 major groups representatives from 142 different organizations attended these meetings. Major groups especially welcomed the variety of opportunities provided to them whereby they could interact with experts and delegates in thematic discussions. The inputs and active participation of major groups added significant value to the outcome of the two-year cycle, as contained in the decisions of the Commission.

VII. Partnerships for sustainable development

50. Voluntary, multi-stakeholder partnerships working towards sustainable development goals have proved to be an important complementary outcome of the World Summit on Sustainable Development. As of February 2005, a total of 300 such partnerships had been registered with the secretariat for the Commission on Sustainable Development.

51. Partnerships for sustainable development have a special character, they are specifically linked to implementation of globally agreed commitments in the Johannesburg Plan of Implementation, Agenda 21 and/or the Programme for the Further Implementation of Agenda 21. However, as stressed at the Summit, these partnerships are not a substitute for government responsibilities and commitments; they are intended to strengthen implementation by involving all those who can make a contribution to sustainable development.

52. The Commission on Sustainable Development was designated by the World Summit as the focal point for discussion on partnerships that promote sustainable development. At its eleventh session in 2003, the Commission stressed that partnerships in the context of the Summit process and its follow-up should be developed and implemented in accordance with a set of agreed criteria and guidelines. The Commission agreed that information on partnerships for sustainable development should be made publicly available. As part of this information-sharing process, the Commission requested the secretariat to make information on partnerships available through a database accessible to all interested parties.

53. In February 2004, the Department of Economic and Social Affairs launched the Partnerships for Sustainable Development database. This interactive web-accessible database contains information based on voluntary reports from lead contacts of registered partnerships and is an important tool for sharing information on partnerships-related issues. The website contains a wide variety of practical information: from details on how to register partnerships with the Commission's secretariat, to information on upcoming partnerships-related meetings, including the Partnerships Fairs, to recent publications on registered partnerships, produced by the Commission's secretariat that are available for download.

54. Various other activities are being undertaken by the secretariat to increase awareness about registered partnerships. At the recent International Meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States held in Port-Louis, Mauritius, from 10 to 14 January 2005, the secretariat organized a 3-day programme on partnerships activities. In addition, the secretariat produced an information document on small island developing States partnerships for the Mauritius meeting, which included brief synopses, along with contact information for the lead partners of such registered partnerships.

55. The Moroccan Ministry of Territory Planning, Water and Environment, in cooperation with the Department of Economic and Social Affairs, organized the second International Forum on Partnerships for Sustainable Development: Advancing Implementation on Water and Energy in Marrakesh, in March 2005. The outcome of the Forum was presented at the thirteenth session of the Commission on Sustainable Development.

56. Partnerships for sustainable development continue to develop and grow and new partnerships continue to be launched. Many registered partnerships are operational, while others are making progress in the organizational and coordination phases of their development. In accordance with the criteria for registering partnerships with the Commission, all of these initiatives have clearly stated goals and objectives related to sustainable development that complement those outlined in Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation. By collaborating across all levels, sharing

skills, resources and expertise and working to develop innovative solutions to global concerns, these partnerships continue to demonstrate their importance by adding concrete value to implementation.

VIII. Conclusions and recommendations

57. **The present report shows that there is a broad range of implementation activities going on at all levels. Member States, organizations of the United Nations system and actors from the civil society should stay on this implementation track while aiming for accelerated progress.**

58. **To that end, it is recommended that the General Assembly:**

(a) **Urge Governments to continue to implement Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation;**

(b) **Call on Governments to continue their support to the Commission on Sustainable Development by organizing inter-sessional activities, making available to the Secretariat broader dissemination success stories, best practice and case studies and by contributing to the Commission's trust fund in support of its work, as requested at the Commission's thirteenth session;**

(c) **Request the CEB High-level Committee on Programmes to continue monitoring the operational efficiency and effectiveness of UN-Water, UN-Energy, UN-Oceans and other inter-agency collaborative mechanisms in the follow-up to the World Summit on Sustainable Development;**

(d) **Call upon donor Governments and international financial institutions to target funding support to developing countries in key policy options and practical measures as identified in the policy decisions of the Commission at its thirteenth session.**

Notes

[1] *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: *Resolutions adopted by the Conference*, resolution 1, annex II.

[2] Resolution S-19/2, annex.

[3] *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

[4] See resolution 55/2.

[5] *Official Records of the Economic and Social Council, 2004, Supplement No. 9* (E/2005/29).

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Report of the Secretary-General

Corrigendum

Paragraph 22

The second sentence *should read*

> These priorities include water scarcity and pollution; sanitation, safe drinking water and health; gender mainstreaming in water and sanitation; and integrated water resources management and disaster reduction.

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Human resources management

Study on the availability of skills in local labour markets for which international recruitment for the General Service category takes place

Report of the Secretary-General

Summary

The General Assembly, in its resolution 59/266, requested the Secretary-General to conduct a study on the availability of skills in local labour markets for which international recruitment for General Service staff takes place and, drawing on the findings, to reassess the determination made in 1975 that recruitment from outside the area of the duty station is necessary to staff the text-processing units, bearing in mind the need for the highest standards of quality relevant to the language function, and to report to the General Assembly at its sixtieth session.

In response to that request, the Office of Human Resources Management, in cooperation with the Department for General Assembly and Conference Management, conducted such a study, taking into account a number of recommendations made by the Office of Internal Oversight Services (OIOS) in its report on the same subject (A/59/388), including conducting a targeted recruitment campaign and systematic testing of local candidates.

The present report has been prepared on the basis of that study. It provides background information, including a summary of skills required, describes the outreach efforts made to attract applications from local labour markets, and analyses the results of the recruitment campaign.

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The study, conducted within existing resources, reconfirms the availability of qualified candidates from the local market for the English Text Processing Unit, but could not conclusively determine if qualified candidates for the text processing units of the other five official languages (Arabic, Chinese, French, Russian and Spanish) were available locally in sufficient numbers to meet the staffing needs of the Secretariat.

The General Assembly may wish to provide guidance on whether further study should be made to determine conclusively if recruitment from outside the area of the duty station is necessary to meet the staffing needs of the Arabic, Chinese, French, Russian and Spanish Text Processing Units. Should the General Assembly decide that such studies should be made, additional resources would be required, as indicated in the OIOS report (see A/59/388, paras. 42 and 44).

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I. Introduction

Background

1. The present study has been prepared in response to the request of the General Assembly in its resolution 59/266, to conduct a study on the availability of skills in local labour markets for which international recruitment takes place for the General Service category. The request was made after the General Assembly considered the report of the Office of Internal Oversight Services (OIOS) on the same subject (A/59/388), in which OIOS recommended greater efforts to identify suitable candidates in the local labour market through targeted recruitment campaigns and testing of candidates.

2. As noted by the OIOS report, there were two assessments made in the past regarding the availability of skills in local labour markets. The original determination in 1975 was based on the results of tests given by the Recruitment Division in the 1960s and early 1970s. As pointed out in the OIOS report, with changes in the conditions of local labour markets, the data derived 30 years ago may be obsolete and may need to be updated. In 2000, when the local salary survey took place for the General Service and related categories in New York, an informal survey of the comparator employers was made in an attempt to see if the jobs comparable with posts in the text processing units could be found among the comparators. The findings were negative. The OIOS report pointed out that the findings did not necessarily establish that qualified people are not available in local markets, and called for strategic outreach efforts to identify skills in local labour markets.

3. The present study takes into account the recommendations made in the OIOS report within existing resources, including strategic outreach efforts such as advertising vacancy announcements in locally, regionally and nationally circulated newspapers in the relevant languages, cooperation with language departments of United States universities and training institutes that specialize in foreign languages.

4. Some of the recommendations in the OIOS report, such as the use of recruitment agencies and local foreign language associations and the establishment of a trainee programme, have not been implemented yet due to lack of time and resources required to identify suitable recruitment agencies on a basis of competitive bidding and to establish the proposed training programme within the time frame.

5. The study provides a summary of the skills required, describes the various outreach efforts made to attract applications and presents the test results of eligible candidates.

6. The present study, based on the results of the recruitment campaign, provides useful preliminary information on the availability of skills in local labour markets for which international recruitment takes place for the General Service category. Should the Assembly require more comprehensive data, it may wish to consider requesting further recruitment campaigns with additional resources.

II. Scope of the study

7. For the practical purpose of identifying and testing candidates readily available in the local labour market, the recruitment campaign focused mainly on candidates who indicated their current address was in the New York metropolitan area, regardless of their legal status in the United States.

A. Projected requirements for Editorial and Desktop Publishing Assistants

8. According to the Department for General Assembly and Conference Management, the projected number of General Service vacancies in the Text Processing Section from 2005 to 2009 is 47, as shown in table 1. The largest requirement is in the Arabic Text Processing Unit, where 19 posts are expected to become vacant in the next five years.

Table 1
Current and projected vacancies in text processing units

	Current vacancies[a]	*Projected vacancies 2005*	*Projected vacancies 2006*	*Projected vacancies 2007*	*Projected vacancies 2008*	*Projected vacancies 2009*	***Total***
Arabic Text Processing Unit	6	1	7	3	1	1	**19**
Chinese Text Processing Unit	0	0	4	2	1	—	**7**
English Text Processing Unit	2	0	—	1	—	1	**4**
French Text Processing Unit	0	1	—	1	1	1	**4**
Russian Text Processing Unit	0	—	4	—	1	—	**5**
Spanish Text Processing Unit	0	1	1	4	2	—	**8**
Total	**8**	**3**	**16**	**11**	**6**	**3**	**47**

Source: Department for General Assembly and Conference Management, as at 31 July 2005.
[a] Current vacancies are filled by retirees.

9. In addition, the Department for General Assembly and Conference Management requires temporary staffing in order to meet increased demand during peak periods, and to meet other needs such as replacement of staff on mission detail, maternity leave or sick leave. For example, a total of 21 Editorial and Desktop Publishing Assistants were recruited on a temporary basis during the fifty-ninth session of the General Assembly in 2004. These and other temporary requirements are normally met by hiring from the pool of retired/former staff members who do not receive international benefits.

10. Of the 47 projected vacancies, four are in the English Text Processing Unit, where Editorial and Desktop Publishing Assistants are recruited locally. Thus, the task of the present study is to determine whether the local labour market will be able to meet the requirements for the remaining 43 projected vacancies of Editorial and Desktop Publishing Assistants in other units over the next five-year period.

B. Desirable size of the roster of candidates

11. In building a viable roster of qualified candidates, various contingencies must be considered. For example, while the projected staffing requirements of the Text Processing Section cover the next five years, past experience shows that many successful candidates placed on the roster move on to new jobs and become unavailable. In addition, the projected staffing requirements do not take into account attrition due to reasons other than retirement. Furthermore, not all the candidates from the roster may be found suitable when interviewed by programme managers. In view of the above, it is prudent to provide for a margin of safety by ensuring that the size of the roster is at least 50 per cent greater than the projected staffing requirements. Thus, in order to meet the staffing requirements of the Text Processing Section with skills available in local markets, we would need to build and maintain a roster with a total of 72 candidates, as shown in table 2.

Table 2
Desirable size of roster of Editorial and Desktop Publishing Assistants

Language	*Current and projected vacancies 2005-2009*	*Desirable size of roster*
Arabic	19	29
Chinese	7	11
English	4	6
French	4	6
Russian	5	8
Spanish	8	12
Total	**47**	**72**

III. Skills required

12. According to the vacancy announcement used by the Department for General Assembly and Conference Management, the functions of Editorial and Desktop Publishing Assistants are as follows:

(a) Produce camera-ready documents for reproduction by formatting documents in desktop publishing layout; this includes data input from audio or live dictation. Incorporate changes as marked by editors, translators and revisers, ensuring that the final version of the document conforms to, as the case may be, (a) the draft translation, as to contents; and/or (b) the original language manuscript, as to format and typography, in accordance with existing editorial guidelines;

(b) Perform proofreading functions, ensuring that changes have been incorporated as marked in the draft copy and alerting the responsible authority if obvious errors or discrepancies are found in the translated text;

(c) Participate, as a member of a team, in the production of parliamentary and miscellaneous documentation, supplements and sales publications by preparing desktop publishing layout of the final product in the relevant language for reproduction in hard copy and electronic dissemination;

(d) Compile submitted corrections and edit documents in the relevant language, according to required format;

(e) Perform other related work as required.

13. The key job requirements of Editorial and Desktop Publishing Assistants are as follows:

(a) Education: high school diploma or equivalent;

(b) Passing the following qualifying tests:

- Typing test (54 words per minute)
- Grammar test and spelling test
- Document dictation (verbatim) test
- Text-formatting test

(c) Experience: progressively responsible experience with the methods and procedures for desktop publishing documentation (draft typing, copy editing, proofreading and typographical layout of documentation);

(d) Languages: must have the relevant language as the primary language (usually mother tongue); oral and written proficiency in that language, with strong knowledge of spelling and grammar. For non-English posts, the ability to communicate in English is desirable, the posts being in New York;

(e) Other skills: familiarity with the documents production system;

(f) Other requirements: necessity to rotate in day and night shifts, and availability for overtime and on-call assignments, depending on the needs of the service.

IV. Recruitment campaign

14. Following the recommendations of the OIOS report, a targeted recruitment campaign was launched jointly by the Department for General Assembly and Conference Management and the Office of Human Resources Management in 2005 to determine the availability of the required skills in the local labour market and to build the roster of qualified candidates for the anticipated vacancies in text processing units.

15. A number of methods were employed to seek potential candidates, including advertising vacancy announcements on the United Nations web site (www.jobs.un.org) and in English and foreign language newspapers, and soliciting

applications from language departments of universities, language-training institutes, spouses of staff members and permanent missions to the United Nations.

16. Following is a summary of the outreach efforts that have been made:

(a) On 8 and 9 March 2005, vacancy announcements reflecting the job requirements as outlined in paragraph 12 above were posted on the United Nations employment website (www.jobs.un.org);

(b) On 29 and 30 March 2005, e-mail messages were sent to language departments of universities and language-training institutes in the United States, requesting assistance to circulate vacancy announcements on their campuses and in their facilities;

(c) On 22 April 2005, an e-mail message was broadcast to the staff members of the Secretariat and United Nations programmes and agencies in New York and to permanent missions to the United Nations in New York;

(d) A note verbale dated 29 April 2005 was sent to all permanent missions to the United Nations in New York informing of the vacancy announcements;

(e) Advertisements were placed in various English and foreign-language newspapers circulated in the United States as follows:

- Arabic:
  - *Al-Ahram International* on 6 May 2005, with a circulation of 45,000 copies
  - *Al-Asboa* on 27 May 2005, with a circulation of 25,000 copies
- Chinese:
  - *World Journal* on 1 and 2 May 2005, with a circulation of 180,000 copies
- English:
  - *The New York Times* on 1 May 2005, with a circulation of 1.14 million copies on Sundays
- French:
  - *The Haitian Times* on 4 May 2005, with a total circulation of 15,000 copies (10,000 copies in the New York metropolitan area and 5,000 copies in the rest of the United States)
  - *France-Amerique* on 4 May 2005, with a circulation of 20,000 copies
- Spanish:
  - *El Diario* on 3 and 4 May 2005, with a circulation of 50,000 copies
- Russian:
  - *Novoe Russkoe Slovo* on 30 April 2005, with a circulation of 40,000 copies

V. Analysis of the results of the recruitment campaign

A. Applications received and status of review and testing

17. In response to the recruitment campaign, 1,303 applications were received as at 29 July 2005, with a breakdown of 166 for Arabic positions, 119 for Chinese positions, 519 for English positions, 166 for French positions, 106 for Russian positions and 227 for Spanish positions. Table 3 gives the summary status of applications as at 29 July 2005.

Table 3
Status of recruitment campaign as at 29 July 2005

Language	*Total applications*	*Local*	*Local not eligible*	*Eligible local*	*Convoked local*[a]	*Scheduled local*	*Tested*	*Passed*	*Failed*	*Success rate of tested*
Arabic	166	66	5	61	61	51	47	3	44	6.38%
Chinese	119	97	4	93	93	76	40	10	30	25.00%
English	519	265	27	238[b]	77	50	46	14	32	30.43%
French	166	74	14	60	60	49	44	5	39	11.36%
Russian	106	54	5	49	49	35	21	0	21	0.00%
Spanish	227	109	11	98	98	83	47	8	39	17.02%
Total	**1 303**	**665**	**66**	**599**	**438**	**344**	**245**	**40**	**205**	**16.33%**

Source: Office of Human Resources Management.

[a] Candidates invited to take the tests are mainly those who have their current address in the New York metropolitan area.

[b] Includes 161 applicants not invited due to late application but reserved for future recruitment campaigns.

1. Arabic

18. One hundred sixty-six applications were received in response to the vacancy announcement; 66 candidates had their current address in the New York metropolitan area; 51 candidates were scheduled to take the test and 47 candidates took it. Of the 47 candidates tested, three candidates passed the test. That represents a 6.38 per cent success rate for those tested. Of the three successful candidates, one has United States citizenship, one has permanent resident status and the remaining one has a type of visa that would require conversion to a G-4 visa if recruited. Thus, only two candidates would be eligible for local recruitment, which would be insufficient to meet the projected needs. Since the Arabic Text Processing Unit has 19 projected vacancies in the next five years, the desirable size of the roster for Arabic would be 29 (19 plus 50 per cent) (see para. 11 and table 2).

2. Chinese

19. One hundred nineteen candidates responded to the advertised vacancy announcement; 97 candidates had their current address in the New York metropolitan area; 76 candidates were scheduled to take the test and 40 actually took it. Of the 40 candidates tested, 10 passed the test. That represents a 25 per cent success rate among those tested. Of the 10 successful candidates, one has United States citizenship, two have United States permanent resident status, two have a G-4

visa, one is applying for United States permanent resident status and four have other types of visas that would require conversion to a G-4 visa if recruited. Therefore, of the 10 successful candidates, three would qualify for local recruitment, which would be insufficient to meet the projected needs (see para. 11 and table 2).

3. English

20. Although English Editorial and Desktop Publishing Assistants are recruited locally, the recruitment campaign included English positions to build a roster for recruitment purposes and to reassess the local market condition.

21. The vacancy announcement for English positions attracted 519 applications, which represent 39.65 per cent of applications received for all languages. 265 applications (51.06 per cent) had indicated their current address in the New York metropolitan area; 50 candidates were scheduled to take the test and 46 took it. Fourteen candidates were successful and 32 failed; 30.43 per cent of the candidates tested passed the test. Of the 14 successful candidates, 10 are United States citizens, and two are United States permanent residents, making a total of 12 candidates eligible for local recruitment. Since there are four projected vacancies in the English Text Processing Unit for the next five years and the desirable size of the English roster is six, there is a surplus of six candidates. Thus, the local labour market is expected to continue to meet the staffing needs of the Secretariat.

4. French

22. The vacancy announcement attracted 166 applications for the French Editorial and Desktop Publishing Assistants positions. Seventy-four candidates had their current address in the New York metropolitan area; 49 were scheduled to take the test and 44 actually took it. Five candidates were successful and 39 failed; 11.36 per cent of the candidates tested passed the test. Of the five successful candidates, none has United States citizenship and one has United States permanent residency status. The remaining three have other types of visas that would require conversion to a G-4 visa if recruited. Thus, of the five successful candidates, only one will qualify for local recruitment, which would be insufficient to meet the projected needs. Since the French Text Processing Unit has four projected vacancies to be filled in the next five years, the desirable size of the French roster would be six.

5. Russian

23. One hundred six candidates responded to the vacancy announcement. Of those, 54 had their current address in the New York metropolitan area; 35 were scheduled to take the test, and 21 took it. None passed the exam. The Russian Text Processing Unit has five projected vacancies to be filled in the next five years. The desirable size of the Russian roster is eight. The recruitment campaign indicates difficulty in meeting staffing needs through local recruitment.

6. Spanish

24. Two hundred twenty-seven candidates responded to the vacancy announcement for Spanish Editorial and Desktop Publishing Assistants; 109 had their current address in the New York metropolitan area; 83 were scheduled to take the test and 47 actually took it. Eight candidates were successful and 39 failed; 17.02 per cent of those tested passed the test. Of the eight successful candidates, two are United

States citizens, and three have United States permanent residency status. The other three candidates have other types of visas that would require conversion to a G-4 visa if recruited. Thus, of the eight successful candidates, five candidates would be eligible for local recruitment, which would be insufficient to meet the projected needs. Since there are eight projected vacancies to be filled in the Spanish Text Processing Unit in the next five years, the desirable size of the Spanish roster would be 12.

B. Summary of findings

25. Table 4 summarizes the preliminary findings of the recruitment campaign.

Table 4
Preliminary results of the 2005 recruitment campaign versus projected staffing needs and desirable size of roster candidates

Language	*Number of candidates tested*	*Number of total successful candidates*	*Number of successful candidates eligible for local recruitment*	*Successful candidates eligible for local recruitment as per cent of those tested*	*Projected staffing needs for 2005-2009*	*Desirable size of roster of local candidates*	*Number of additional local candidates required*
Arabic	47	3	2	4.26%	19	29	27
Chinese	40	10	3	7.50%	7	11	8
English	46	14	12	26.09%	4	6	-6[a]
French	44	5	1	2.27%	4	6	5
Russian	21	0	0	0.00%	5	8	8
Spanish	47	8	5	10.64%	8	12	7
Total	**245**	**40**	**23**	**9.39%**	**47**	**72**	**49**[b]

[a] "-6" indicates that the number of successful candidates eligible for local recruitment is in excess of the required size of the roster by 6, as explained in paragraph 21.

[b] Total number of additional local candidates required for non-English official United Nations languages is 55.

VI. Conclusion

26. The findings of the 2005 recruitment campaign reconfirm the availability of a sufficient number of qualified candidates from the local labour market to meet the staffing needs of the English Text Processing Unit. For the other languages, with the exception of Russian, the 2005 campaign indicates that it is possible to identify some qualified candidates locally, but not in sufficient numbers to meet the needs of the Department for General Assembly and Conference Management.

VII. Recommendation

27. **The General Assembly may wish to take note of the present report and to provide guidance on whether further study should be made to determine conclusively if recruitment from outside the area of the duty station is necessary to meet the staffing needs of the Arabic, Chinese, French, Russian and Spanish text processing units.**

28. **Should the General Assembly decide that further study should be undertaken, additional resources would be required, as indicated in the OIOS report (see A/59/388, paras. 42 and 44).**

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Item 72 of the provisional agenda*
Rights of peoples to self-determination

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of Shaista Shameen, Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries, submitted in accordance with Assembly resolution 59/178.

* A/60/150.

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Report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Summary

At its sixty-first session, the Commission on Human Rights decided to end the mandate of the Special Rapporteur on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. The Special Rapporteur will be replaced by a working group.

In the present report, submitted in accordance with General Assembly resolution 59/178, the Special Rapporteur provides an overview of her activities, the direction her work has taken and proposals on how it can be developed further under the mandate of the working group. She underlines that her somewhat practical approach represents a point of departure from the efforts of the former Special Rapporteur, and has paved the way for a fundamental rethinking of the issue of mercenarism and its relation to the promotion and protection of human rights. With respect to a definition of mercenary, the Special Rapporteur recommends a substantive and comprehensive review of the legal definition of mercenaries and their activities and calls for an international debate on the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

In fulfilment of her mandate, the Special Rapporteur reports on her contacts with private military and security companies and her efforts to encourage the development of a code of conduct for that sector, including through consultations with representatives of the relevant organizations. A statement issued at a meeting she held with representatives of military and security companies in London in June 2005 is reproduced in annex II to the present report. She also reports on the current status of the International Convention and on the development of national legislation against mercenarism.

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I. Introduction

1. In its resolution 59/178 of 20 December 2004, the General Assembly requested the Special Rapporteur on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination to consult States and intergovernmental and non-governmental organizations in the implementation of the resolution and to report on her findings, with specific recommendations, to the Assembly at its sixtieth session. It also requested her to circulate to States and consult with them on the new proposal for a legal definition of a mercenary drafted by the former Special Rapporteur (see E/CN.4/2004/15, para. 47) and to report her findings to the Commission on Human Rights and the Assembly. It further requested her to continue to take into account, in the discharge of her mandate, the fact that mercenary activities continue to occur in many parts of the world and are taking on new forms, manifestations and modalities, and, in this regard, requested her to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the exercise of the right of peoples to self-determination. The present report is submitted in accordance with that request.

2. At its sixty-first session, the Commission on Human Rights, in its resolution 2005/2 of 7 April 2005, decided to end the mandate of the Special Rapporteur on the use of mercenaries and to establish a working group on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, made up of five independent experts, one from each regional group, for a period of three years. This decision was endorsed by the Economic and Social Council in its decision 2005/255 of 25 July 2005.

3. In the present report, the Special Rapporteur provides an overview of her activities in the fulfilment of her mandate, a description of the direction her work has taken and proposals for ways it can be developed further under the mandate of the working group. She underlines that her somewhat practical approach departs from that of the former Special Rapporteur and has paved the way for a fundamental rethinking of the issue of mercenarism and its relation to the promotion and protection of human rights.

II. Activities of the Special Rapporteur

A. Implementation of the programme of activities

4. The Special Rapporteur visited Geneva from 5 to 10 December 2004 to attend the third meeting of experts on traditional and new forms of mercenary activities (see E/CN.4/2005/23).

5. The Special Rapporteur also visited Geneva from 16 to 19 April 2005 to attend the sixty-first session of the Commission on Human Rights. During her visit, she held a meeting with States parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, during which she briefed participants on the progress of the mandate and updated them on the proposed new legal definition of a mercenary and how she intended to take it forward. During that visit, she also met with representatives of the International Committee of the Red

Cross, and held working meetings with the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

6. In 2004, the Special Rapporteur attended the annual meeting of the Special Rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme in Geneva (20-24 June) and a meeting of private military and security companies in London (25-29 June).

B. Correspondence on the definition of mercenary

7. Pursuant to Commission on Human Rights resolution 2004/5, on 3 August 2004 OHCHR sent a note verbale to Member States on the new proposal for a legal definition of a mercenary drafted by the former Special Rapporteur. As at December 2004, replies had been received from the Governments of Mauritius, Namibia and Cuba (see E/CN.4/2005/14, paras. 20-24). On 8, 11 and 12 October 2004, the Special Rapporteur sent letters to the States parties to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, requesting their reactions to the proposed new legal definition of mercenary. In October, responses thereto were received from Qatar and Azerbaijan, which were summarized in the Special Rapporteur's report to the Commission at its sixtieth session (E/CN.4/2005/14, paras. 26 and 27).

8. On 24 February 2005, a reply was received from the Government of Togo, in which it stated, inter alia, that Togo adhered totally to the common action led by the international community to combat mercenarism in all its forms. It affirmed that the adoption of the Protocol to the African Union Convention on the Prevention and Combating of Terrorism and the creation in Algiers of an African centre for the study of and research on terrorism were strong signs of the determination of African heads of State to achieve that end. The Government of Togo also called for a firm commitment from States to coordinate their efforts in the area of the exchange of information on mercenary activities and movements, the provision of mutual legal assistance and the sharing of know-how, with a view to enhancing mutual technical and operational capacities. In the same vein, joint action should be undertaken at the international level to coordinate the surveillance of borders and to prevent the illegal transborder movements of weapons, ammunition and explosives.

9. Further to the request of the General Assembly in its resolution 59/178, a note verbale was sent to Member States on 2 May 2005. On 30 May 2005, a reply was received from the Government of South Africa. While largely agreeing with the wording of the new definition, it proposed a change to the second sentence of article 1, paragraph 1 (b) which would read as follows: "However, an exception is made where a national of a country affected by the crime is hired to commit the crime in his country of nationality and uses his status as national to conceal the fact that he is being used as a mercenary by the State or organization that hires him". It also stated that it agreed with the mention, in article 1, paragraph 2 (a) (i), of undermining the "legal, economic or financial order or the valuable natural resources of a State", since the last was particularly important given the situation in some African countries where valuable natural resources were targeted, as illustrated by the example of South African-based mercenaries allegedly recruited to unseat President Obiang Mbasogo of Equatorial Guinea.

10. The Government of Mexico responded on 31 May 2005, stating that the new definition was not entirely appropriate and could represent a threat to the legitimate activities of a democratic regime, such as the defence of human rights by civil society organizations or political opposition to the regime.

11. In its reply received on 1 June 2005, the Government of Liechtenstein expressed the view that the draft articles proposed by the former Special Rapporteur added confusion to the question of the definition of a mercenary by using a number of unclear terms and by broadening the definition to an extent that appeared to include any person who expected to receive money for one of the crimes listed, as well as any person who provided contractual services to armed forces. The outsourcing of military activities being a reality of contemporary warfare, it seemed inappropriate to address this reality by expanding almost without limit the scope of application of a convention that had hitherto found little support in the international community. The real challenge consisted of ensuring the applicability of international legal standards to any person clearly acting on behalf of a party to an armed conflict to ensure accountability, including criminal responsibility, in accordance with the relevant human rights and humanitarian law instruments, and to put an end to the legal vacuum in which those persons and entities currently operated. Liechtenstein considered that it was necessary to undertake a thorough legal analysis of the relationship of the activities of private military firms and their employees to international law, and in particular, international humanitarian law, and that this analysis should best be undertaken within the framework of the Sixth Committee of the General Assembly, or possibly the International Law Commission.

12. The Government of Lebanon replied on 16 May 2005. It explained that in the absence of a legal definition of the word "mercenary", Lebanon relied on the dictionary definition, which reads: "Mercenaries are soldiers who earn their living by offering themselves for hire (i.e. by hiring out themselves or their services) to a foreign State".[1] The proposed new definition of the word "mercenary" was consistent with the conventional dictionary definition of the term, which was regarded as a legal definition, and went beyond that definition by categorizing the acts of concerted violence as international crimes. The proposed definition therefore succeeded in providing a broader definition of the term.

13. In its reply dated 22 June 2005, the Government of the Philippines stated that while there was no recorded information on the existence of mercenaries in the Philippines, there had been reports on alleged foreign terrorists. Although the amendment proposed to article 3, paragraph 1, had broadened the terms of the definition contained in the Convention and corresponded better to the current situation of national and international peace and security, there was no proof that the new definition would allow for such alleged terrorists to be categorized as mercenaries.

14. In its reply dated 23 June 2005, the Government of Namibia pointed out that some of the wording of the new definition was unclear. In particular, as concerns article 1, it was important that the primary, grammatical and ordinary meanings of the term "mercenary" be included in the definition; at present the relationship between the subparagraphs was unclear and the definition would be weak and meaningless if it was not clearly stated that the subparagraphs were to be read together.

C. Other correspondence

15. In March 2005, the Special Rapporteur wrote to the Government of Equatorial Guinea, expressing her appreciation to the Government for having transmitted to her a copy of the verdict in the trial of alleged mercenaries. She noted, however, that, notwithstanding the usefulness of the information received, she would be in a much better position to determine the relevance of an official mission to the country if she were able to review the full transcripts of the trial proceedings, and requested that they be made available to her. She also proposed possible mission dates and indicated her openness to other suggestions for dates of an official visit.

16. The Special Rapporteur was also in communication with the Government of the United States of America with a view to following through on a preliminary invitation that had been made to the former Special Rapporteur to undertake a fact-finding mission to that country. She had initially proposed that the visit take place in November 2004. In September 2004, the Government welcomed the proposed visit but stated that it was not in a position to provide precise dates or a schedule of appointments. The Special Rapporteur proposed new dates in February 2005 and provided a provisional itinerary. In December 2004, the Government replied that it was necessary to consolidate the meetings to the extent possible. In that letter, the Government noted that while the use of private military companies and contractors was distinct from the use of mercenaries, it would be pleased to provide information that would be helpful to the Special Rapporteur. The plans for the country mission were dropped following the adoption of the resolution by the Commission on Human Rights ending the mandate of the Special Rapporteur.

17. In February 2005, the Special Rapporteur wrote to the Executive Director of the Institute for Security Studies in South Africa, endorsing the project proposed by the Institute for the regulation of the private sector in Africa. She expressed the belief that a project of the nature and scope outlined would usefully add to current knowledge and provide a more fully informed approach to the issue, especially through the use of action-oriented research methodologies that could yield more concrete understanding and dialogue among relevant actors.

18. In March 2005, the Special Rapporteur wrote to the Director of the Centre for Political and International Studies in the Russian Federation, expressing her regret at not being able to attend the inter-parliamentary assembly of the Commonwealth of Independent States (CIS) in St. Petersburg in April. She was looking forward to receiving the English versions of the draft of the CIS model law on the fight against mercenarism and the regional agreement on regulating mercenarism drafted by the Collective Security Treaty Organization, believing these processes to be significant for setting precedents in addressing mercenarism at the regional level.

19. On 14 February 2005, the Special Rapporteur addressed a letter to the Minister of Human Rights of Côte d'Ivoire, noting that in paragraph 12 of its resolution 1584 (2005) of 1 February 2005, the Security Council had expressed its grave concern at the use of mercenaries by both Ivorian parties, and had urged both sides immediately to desist from this practice. She urged the Government to consider signing and ratifying the International Convention, and to ratify the African Union Convention for the Elimination of Mercenarism in Africa, which it had signed on 27 February 2004. She also referred to the response to a request by the former Special Rapporteur to visit the country, in which the Government had recommended

that the visit be undertaken at a more propitious time, she expressed the wish to undertake a mission in the near future.

20. The Minister of Human Rights of Côte d'Ivoire, in her reply of 14 March 2005, asserted that according to current information available to her, the Government of Côte d'Ivoire had never had recourse to the use of mercenaries. Also, given the current situation in the country, the same terms would apply to a mission by the new Special Rapporteur as to the one by the former Special Rapporteur.

21. In a letter dated 17 February 2005 addressed to the Forces nouvelles movement in Côte d'Ivoire, the Special Rapporteur drew attention to Security Council resolution 1584 (2005), and expressed concern about the threat posed by the use of mercenaries to respect for and the protection of human rights, especially the right to life and to the integrity of the person, and to the protection of the civilian population.

22. On 24 February 2005, the Special Rapporteur wrote to the States parties to the African Union Convention for the Elimination of Mercenarism in Africa (Benin, Burkina Faso, Cameroon, the Comoros, the Congo, the Democratic Republic of the Congo, Egypt, Equatorial Guinea, Ethiopia, Ghana, Guinea, Lesotho, Liberia, Mali, the Niger, Nigeria, Rwanda, Senegal, Seychelles, the Sudan, Togo, Tunisia, the United Republic of Tanzania, Zambia and Zimbabwe), commending their Governments for having ratified the Convention. She also urged them to consider signing and ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, expressing the belief that this would add to their authority on the issue of mercenarism and further strengthen the regulation of this phenomenon at a global level, thereby safeguarding the integrity of States.

23. The Government of the Sudan replied on 2 March 2005, assuring the Special Rapporteur that her request to consider signing or ratifying relevant instruments on combating mercenarism would be duly attended to, and noted that it had embarked on a thorough study of all regional and international conventions related to peace, security and disarmament.

24. In fulfilment of her mandate, the Special Rapporteur has also been in communication with a number of private military companies, seeking their participation in the development of an international code of conduct and a possible national or international registration and licensing mechanism. The details of this correspondence are given in section V below.

III. Definition of a mercenary

25. In her report to the Commission on Human Rights at its sixtieth session, the Special Rapporteur declared that it was her intention to formulate procedures for the incorporation of a new definition into the International Convention in keeping with paragraph 11 of General Assembly resolution 56/232, in which the Assembly requested the Special Rapporteur to propose a clearer definition of mercenaries, including clear nationality criteria, based on her findings, proposals by States and outcomes of meetings of experts (see E/CN.4/2005/14, para. 55).

26. In keeping with this method of work, the Special Rapporteur participated in the third meeting of experts on traditional and new forms of mercenary activities,

held in December 2004, at which she presented her approach to the proposed new definition (see E/CN.4/2005/23, paras. 64-67).

27. As she stated at that meeting, the proposed definition should contain certain core elements of mercenarism derived from the traditional definition that were still applicable. These include the existence of a contract or contractual obligation with elements of offer, acceptance and compensation in the relationship, and engagement in armed conflict. Concerning the latter, the new definition proposed replacing, in article 1, paragraph 1 (a), the verb "to fight" with the verb "to participate". However, the phrase "to participate" should be treated with caution, because it might include those participating in armed conflict in roles such as cooks employed to feed the mercenaries; any serious criminal offence of mercenary activity required a specific intention to commit or knowledge of the criminal activity. It might therefore be desirable to add the word "knowingly" and/or the word "actively".

28. In addition, the separation in the Convention of the definition of a mercenary into two parts — the first referring to individual (or traditional) mercenaries fighting in any armed conflict, the second to mercenaries engaged in armed conflict with the specific purpose of overthrowing a constitutional order (political element) — was another core element that was still applicable.

29. However, there were a number of fundamental problems that still had to be addressed in the proposal for a new definition, which had to include specific elements reflecting current international realities. In the traditional definition, one of the core identifiers of a mercenary was that he was not a national of a party to the conflict. However, in the modern era, when people could hold more than one nationality or where there was no nation-State and the concept of nationality was fluid, that requirement could be problematic and should be reviewed. In addition, article 1, paragraph 2 (a) (iv), of the proposed new definition ("Denying self-determination or maintaining racist regimes") should be reviewed, since the definition as it stood would permit mercenaries to use toppling racist regimes or assisting peoples in their right to "self-determination" as an excuse for carrying out mercenary activities. The term "self-determination" no longer had the same uniform meaning as when the Convention was first drafted. Another new element that should be included in the new definition should be that of a "mercenary company".

30. The Special Rapporteur stresses that the new definition must demonstrate that mercenarism is a human rights issue, with implications for violations of, inter alia, the right to life and the integrity of the person and to national security, as well as for the right to self-determination. It must make a distinction between mercenaries and terrorists, stressing the distinction between material and ideological motives. Lastly, it must be essentially politically feasible, i.e. the legal instrument containing the definition must be likely to attract signatures and ratifications.

31. The Special Rapporteur reiterates her view that the term "self-determination" no longer has the same uniform meaning as when the Convention was first drafted, reflecting the geopolitical realities of the time, in particular the situations that prevailed in southern Africa and Cuba in the 1970s. The only contemporary exception may be Cuba, whose contention that its nationals or former nationals who attempt to interfere with its right to self-determination are mercenaries within both the current and proposed new definitions needs to be supported by more concrete evidence than has been provided to the Special Rapporteur to date.

32. The working definition as proposed and the piecemeal approach thereto inevitably resulting from suggestions made by Member States during the sixtieth session of the Commission on Human Rights and in the Third Committee of the General Assembly limit its usefulness. The consultations held indicated that a substantive and comprehensive review of the definition of mercenaries and their activities was needed. Such a review should ideally be undertaken by the Sixth Committee or the International Law Commission, as recommended by Liechtenstein, and should include expertise on international humanitarian law.

IV. National legislation

33. As concerns legislation against mercenarism at the national level, countries that have developed laws on mercenarism include:

(a) Namibia and South Africa (legislation specifically on mercenaries);

(b) Azerbaijan, the Russian Federation and Uruguay (legislation as part of the Criminal Code);

(c) Cuba and France (legislation as part of the Penal Code);

(d) Australia, the United Kingdom of Great Britain and Northern Ireland and the United States of America (other legislation relating to security or activity abroad).

Of the countries that are parties to the International Convention on the Recruitment, Use, Financing and Training of Mercenaries, Croatia, Georgia and New Zealand have developed laws that are in compliance with obligations under the Convention.

34. The Special Rapporteur recommends that in any review of existing legislation or drafting of new legislation, serious consideration should be given to the following:

(a) That the definition of mercenary should have

currency in the specific context of conflict and post-conflict situations in the current geopolitical environment of deregulation of military activity and the changing role of peacekeeping operations, where a number of different actors are involved in security and logistics operations;

(b) Offences and penalties;

(c) Authorization or licensing regulations;

(d) Systems of measures and controls;

(e) International cooperation, extraterritoriality and extradition agreements;

(f) Development of and support for a national industry-wide and uniform code of conduct for private military or security operations.

V. Private military and security companies

35. Between February and April 2005, the Special Rapporteur addressed letters to three private military companies (Beni Tal — Israeli Security Company, Erinys

Africa, and Northbridge Services Group) with respect to the development of a code of conduct. She expressed the belief that promoting self-regulating initiatives, such as codes of conduct, was in the interest of advancing regulation of the private military sector, and the wish to promote the consideration of human rights in the drafting of such documents, urging that the various efforts be coordinated and consolidated. She asked for their views on the following:

(a) Whether a code of conduct would be useful;

(b) The methods by which a code of conduct could be developed;

(c) Elements to be included in such a code of conduct;

(d) The links that could be made in such a code of conduct to international human rights norms;

(e) The roles of various other actors, such as intergovernmental and civil society organizations, in the process;

(f) The mechanism that could be used for the implementation of such a code of conduct.

36. The Special Rapporteur also wrote to the International Peace Operations Association (IPOA), which has developed a code of conduct, and to three of its members: ArmorGroup International, Blackwater USA and Military Professional Resources Incorporated (MPRI). She requested that they share with her their experience and views on the issues cited above.

37. ArmorGroup replied that it was engaged with the Governments of the United States of America and the United Kingdom of Great Britain and Northern Ireland on matters of corporate standards, codes of conduct and regulation as applicable to private security companies. ArmorGroup was also engaged with selected academics, institutions and human rights organizations, with which it had adopted a policy of absolute transparency. It stated that it had lodged its comprehensive ethics policy with Governments and non-governmental organizations and in terms of human rights, recognized and pledged compliance with international law. In a second letter, ArmorGroup indicated that it was not in favour of using the word "mercenary" in relation to United Nations dealings with the commercial security industry.

38. Erinys Africa also responded in April, stating that it would in principle support such a code, provided it was not restricted to legitimate commercial activity and was internationally accepted. The best way of taking such an initiative forward for British companies would be through a trade organization/body that represented private military and private security companies based in the United Kingdom.

39. IPOA stated in its reply that it had indeed developed a code of conduct for private companies operating in conflict or post-conflict environments, and that human rights were the key concern in the original draft of the IPOA code of conduct. The President of IPOA noted that he had written the draft in coordination with several non-governmental and humanitarian organizations in Sierra Leone in 2000 and that the current version included improvements and additions made by legal experts, academics, human rights specialists and other organizations. IPOA expressed the belief that its code of conduct could provide the basis for international standardization and help ensure that services delivered by private companies in conflict or post-conflict environments were of the highest standard. While

international law and regulations might take years to implement, the IPOA code of conduct could be a standard framework in the meantime. Although adherence to the code of conduct was voluntary, companies publicly endorsing it expected greater scrutiny, and IPOA members that violated the code faced possible expulsion from the association. At the same time, IPOA supported improvements in international law and standardization of domestic laws that cover the industry. IPOA also asserted its belief that while the private sector could do much to support international peace operations — such as security sector reform projects and physical reconstruction efforts — there were many aspects of peace and stability operations that were better entrusted to the international community and non-governmental organizations.

40. In its reply, MPRI stated that, as a charter member of IPOA, it believed that a clear code of conduct and continuous dialogue among the international community, Governments, non-governmental and private sector organizations were essential to the protection of human rights at all levels and agreed that self-regulating mechanisms were an important part of the overall management solution. It noted that the current version of the code had been drawn up on the basis of recommendations made by IPOA members and staff, based on their individual corporate standards, and recognized issues and concerns raised by Governments, international organizations and the non-governmental organization community.

41. The Special Rapporteur was also in contact with the representatives of a number of private military companies to arrange a meeting to continue discussions on a code of conduct. In the interest of advancing regulation, notably self-regulation, of the private military sector in a manner consonant with the observance and protection of human rights, she advocates broad collective efforts in this process, which can contribute to a common understanding of the nature and scope of the activities of these entities.

42. At a meeting with representatives of private military and security companies held in London on 27 and 28 June 2005 and convened at her suggestion, the Special Rapporteur contributed towards the substantive incorporation of human rights in the evolving codes of conduct applied by that sector. The list of companies that attended and the statement issued at the conclusion of the meeting are reproduced in annexes I and II to the present report.

VI. Current status of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries

43. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, adopted by the General Assembly by its resolution 44/34 of 4 December 1989, entered into force on 20 October 2001 when the twenty-second instrument of ratification or accession was deposited with the Secretary-General. On 22 September 2004, New Zealand became the twenty-sixth country to ratify the Convention, with the territorial exclusion of Tokelau.[2] The other 25 States parties are Azerbaijan, Barbados, Belarus, Belgium, Cameroon, Costa Rica, Croatia, Cyprus, Georgia, Guinea, Italy, the Libyan Arab Jamahiriya, Maldives, Mali, Mauritania, Qatar, Saudi Arabia, Senegal, Seychelles, Suriname, Togo, Turkmenistan, Ukraine, Uruguay and Uzbekistan. Nine other States have signed the International Convention, but have not yet ratified it: Angola, the Congo, the

Democratic Republic of the Congo, Germany, Morocco, Nigeria, Poland, Romania and Serbia and Montenegro.

44. The Special Rapporteur notes that the level of ratification of the Convention has been disappointing. A possible explanation may be the problems associated with the definition of the term "mercenary" in the Convention.

VII. Consideration of issues concerning mercenaries

45. The Special Rapporteur concludes that there is a need for a fundamental reconsideration of issues concerning mercenaries, in particular the responsibility of States and the United Nations with respect to the activities of actors currently legally defined as mercenaries. A paradigm shift needs to occur with respect to the mandate. She offers below her reflections on the issue, which she hopes will serve to inform future work undertaken by United Nations mechanisms.

46. The Special Rapporteur has identified a number of problems with regard to mercenarism in the present context. Firstly, it seems that the Convention does not enjoy the support or attract the particular interest of the international community, as demonstrated by the remarkably small number of signatures and ratifications and the fact that very few replies have been received to requests for feedback on the proposed new definition of a mercenary. Another possible explanation is that Member States and the United Nations itself employ entities that may be identified as mercenaries under the current definition.

47. Secondly, there is ambiguity with regard to the status of private military and security companies. In terms of the current definition of a mercenary, many of these companies can be classified as mercenaries or employing mercenaries, although they themselves do not define their activities in that way. Moreover, as noted above, such companies are under contract with Member States, non-governmental organizations and, increasingly, the United Nations, to provide security, logistical support and training in conflict and post-conflict contexts, for example, in Iraq and Afghanistan.

48. In that respect, the core issue revolves around the question of who is entitled to legitimacy in the use of force in the current political and security climate. Since the Middle Ages, and particularly in the nineteenth century, the nation-State has had a monopoly on the use of force. This prerogative has been closely guarded by States, which have criminalized the use of force by non-State actors or those involved in armed conflicts outside State sanction. The Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I) states, in its definition of a mercenary (art. 47), that "a mercenary shall not have right to be a combatant or a prisoner of war", and therefore is not entitled to protection if captured. This is a good example of the contempt with which private soldiering responding to the need for large national armies, was regarded during the cold-war era. In this connection, the International Convention is also quite weak on the application of humanitarian law to captured mercenaries, even though it is an improvement over Additional Protocol I. Article 11 of the International Convention is ambiguous in scope and would need bolstering from a human rights perspective if the Convention were to be retained in its current form.

49. The contemporary climate of liberalization, globalization, military downsizing, privatization and outsourcing has resulted in a proliferation of private military and security companies, leading to questions regarding the legality of such companies under international law. States are increasingly faced with the challenge of having to decide to what extent they are willing to cede their traditional prerogative and monopoly of the use of force to non-State actors, and whether they should rethink the responsibilities of the modern nation-State with respect to security and the use of force. Linked to this is the conflicting role of the United Nations itself, in so far as it relies on the armed forces of its Member States to compose its peacekeeping troops and implement related mandates, often in situations in which States parties in conflict themselves may be unwilling or unable to supply regular peacekeeping personnel.

50. As such, the definition of mercenary in international law is highly problematic. The definition of a mercenary provided by the Geneva Conventions, which was incorporated into the Convention, and the additional provision contained in article 2 of the latter, were found to be sufficiently in need of reconsideration to warrant the drafting of a new proposed definition by the former Special Rapporteur, and for the Commission on Human Rights and the General Assembly to request the circulation of the proposed new definition among Member States for comment. The replies received from Member States show that the proposed new definition has not been well received, and does not fulfil the call for a definition that would optimally reflect present-day realities, including the downsizing of armies and the privatization of State services, including security services.

51. It is the Special Rapporteur's view that the conundrum currently facing the international community on the question of an appropriate and realistic definition of a mercenary first has to be resolved at the policy level at the United Nations. The legal definition of a mercenary can be decided only after a policy decision has been reached on the fundamental question of whether States wish to continue to be solely responsible for the use of force, for declaring war and for sanctioning the use of force within certain internationally acceptable rules of engagement. Issues such as self-determination are also relevant to this question. Many States have violated and continue to violate the human rights of their people as a matter of course, but the responsibility of the international community is not always clearly articulated in this regard, nor has the international community been able to deal promptly and adequately with gross human rights violations committed by some Member States. This reflects negatively on the United Nations, which often appears to be immobilized by its own procedures for receiving endorsement for action. The failure to develop an appropriate definition of a mercenary or the adoption of piecemeal amendments to the current definition is likely to result in quite serious problems for the international community, including ones concerning security.

52. As a possible starting point for developing policy on this issue, a round table should be convened by the United Nations to discuss such core questions as the following:

(a) Should States reclaim full responsibility for their armed forces, without the possibility of outsourcing any of the functions to private entities? If so, should any person or company engaged in armed conflict outside State control be considered a mercenary in terms of domestic and international humanitarian law and prosecuted? Does the Convention need to be amended to include a revised definition

of a mercenary to accommodate the proliferation of companies providing military and security services, and how can States that currently use these services be prohibited from doing so?

(b) Alternatively, should States consider privatizing and outsourcing all their military functions? Will there then be no such phenomenon as mercenary activity contrary to the law, because States will no longer have regular armies on permanent call? If armed forces are needed, they will be employed for the purposes of the task at hand. Their services would be paid for under a contract that would spell out the task to be undertaken and the methods to be used to accomplish it. Such contracts would include human rights and international humanitarian law principles on rules of engagement contained in the Geneva Conventions and United Nations instruments such as the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and so on;[3]

(c) Should States consider retaining a small military force and outsource additional activities under contract when required? Contracts of this type should contain principles of international humanitarian law, and the contracting State would bear entire responsibility for the compliance of companies with international human rights law. If a company violated human rights law, the State employing its services would be held accountable. This third option would render the obsolete Convention superfluous. Should an entirely new convention be drafted to replace it, or only a set of principles on the use of private soldiers and private security companies, i.e., one that is not spatially or situationally specific? Should third parties that are non-State entities — for example, rebels — employing the services of a private military company be considered to have committed a crime and be prosecuted, along with the offending mercenaries or mercenary companies, by domestic courts or the International Criminal Court? Should the responsibility for bringing such criminals to justice be that of the injured party, in cooperation with the United Nations?

53. Another issue that could be discussed is the possible role of private companies providing security and military services within the reformed United Nations. Clearly, the peacekeeping role of the Organization has been under scrutiny, with the concept of peacebuilding proposed as an appropriate development by the Secretary-General in his report "In larger freedom: towards development, security and human rights for all" (A/59/2005). Questions on what the role of the United Nations should be in situations where serious human rights violations are taking place and the difficulty the Organization has faced in the past in trying to stop such widespread violations, including genocide, should also be considered in the light of the immediate assistance many private security companies can offer in such situations. Such assistance need not be at the expense of the contributions to peacekeeping or peacebuilding missions by Member States, but in addition to them, provided there is a properly registered vetting mechanism and guidelines for private companies put in place in advance. The proposal for a uniform and industry-wide code of conduct put forward by a number of private companies and their intention to consider this matter further in the near future should be seen as a relevant development for the consideration of options for the United Nations in this regard.

54. The Special Rapporteur is of the view that the question of the control or management of mercenary activity by the international community and the United Nations should initially be discussed at the policy level, because the conditions that

gave rise to the development of the Convention no longer prevail. The Convention was drafted against the backdrop of decolonization and cold-war polarization, and was developed within a conceptual framework dominated by the notion of hegemonic States. These conditions no longer exist. Without dismissing the need to prosecute those who take part in armed conflict to the detriment of human rights and the right to self-determination outside the limits set by international law, the parameters of the Convention should be reconsidered from the present-day perspective.

55. The first question to be determined, therefore, is what is to be considered as outside the law and criminalized, and what is to be considered acceptable within the new geopolitical environment and the deregulation of State military activity. Only then can the question of the definition of a mercenary, in the Special Rapporteur's view, respond to the realities facing the international community today. A new legal definition can then be drafted with ease and is likely to be more acceptable to Member States, which have provided such contradictory replies to the notes verbales on this issue.

VIII. Conclusions

56. The Special Rapporteur has received a limited number of responses from Member States regarding the proposal for a new legal definition of a mercenary, and believes that the process towards the adoption of some version of the new definition is likely to be a long one if the present course is followed. She concludes that Member States are demonstrating their own ambiguous position and understanding with respect to the roles and duties of States in a fast-evolving climate of international security and peacekeeping efforts by the United Nations.

57. With respect to domestic laws against mercenarism, the Special Rapporteur notes that legislation at the national level is limited, and encourages the incorporation of a number of core elements into the review of existing or the drafting of new legislation, including the definition to be applied.

58. The Special Rapporteur has had encouraging communication with representatives of private military and security companies on the development of a code of conduct consonant with international human rights law and standards, and believes that efforts can usefully be applied to take this momentum forward, including with respect to questions of the usefulness of the current definition of mercenary.

IX. Recommendations

59. The Special Rapporteur recommends that the working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the rights of peoples to self-determination consider taking forward the processes she has initiated, within the framework of its own mandate.

60. The Special Rapporteur recommends that a substantive and comprehensive review of the legal definition of mercenaries and their activities be undertaken. The core elements of a new definition should be: (a) the

existence of a contract of service, with the element of compensation (material gain) being a key factor; (b) the condition that the mercenary have knowingly and with that intention agreed to participate in armed conflict; (c) the condition that, in general, the mercenary be engaged in armed conflict in a country/countries of which he himself is not a national, or where the company is not registered; and (d) the condition that the mercenary (person) or mercenary company (legal personality) have engaged in armed conflict for its own sake and/or to topple the constitutional order of a State. This study should be undertaken by the Sixth Committee of the General Assembly or the International Law Commission; in addition, a round table should be associated with the process, to examine issues related to security, the changing role of the nation-State, deregulation of military activities and international humanitarian and human rights law.

61. In addition to elaborating a legal definition, the Special Rapporteur advocates that the United Nations undertake a debate on the fundamental question of the role of the State with respect to the use of force, so as to reach a common understanding on the respective duties and responsibilities of the different actors in the current context, and their respective obligations for the promotion and protection of human rights. Such a debate could conceivably yield different outcomes, including a fundamental revamping or the total revocation of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and could yield a useful outcome for the United Nations itself with respect to effective maintenance of its peacekeeping and peacebuilding mandates.

62. As concerns private military companies, in the absence of a universally accepted and satisfactory definition of mercenaries and corresponding legislation, a pragmatic approach should be promoted in the interim. This should include encouraging company self-regulation rather than regulation imposed by external bodies, to promote a sense of ownership and sustainability in the implementation of agreed measures.

63. Consideration should also be given to identifying private military and security companies primarily as private-sector actors. This would imply that the corresponding principles and consultations should be extended to this group of companies, including the United Nations Global Compact, the draft "Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights" (E/CN.4/Sub.2/2003/12/Rev.2) and voluntary principles on security and human rights.

64. In terms of their legal status, the Special Rapporteur believes that private military companies may maintain the current status accorded them under international humanitarian law, and that there is inadequate justification for their criminalization under the Convention.

65. The Special Rapporteur recommends that the consultations with representatives of private military companies continue, with a view to ensuring the fundamental incorporation of international human rights law and standards in the development of an international code of conduct for this sector, and underlines that this task is also contained in the mandate of the working group.

66. **The Special Rapporteur wishes to express her support and good will for the future efforts of the working group, and her sincere hope that its work will contribute to an understanding of mercenarism globally and to the elimination of violations of human rights by public and private entities alike.**

Notes

[1] Definition (in Arabic) given in *Al-Munjid fi al-Lughah wa al-Alam*.

[2] "Consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, this ratification shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory." Depositary notification CN.949.2004.TREATIES of 22 September 2004.

[3] The National Security and Human Rights Handbook drafted in partnership between the Fiji Human Rights Commission and the Disciplined Services in Fiji is a useful guide in this regard.

Annex I

List of members of the International Peace Operations Association supporting the communication of peace and security companies (London, 28 June 2005)

American Equipment Company (AMECO)
Greenville, SC
United States of America

Blackwater USA
Moyock, NC
United States of America

Demining Enterprises International
Wierda Park
South Africa

EarthWind Holding Corporation (Groupe EHC)
London
United Kingdom

Hart
London
United Kingdom

International Charters Incorporated (ICI) of Oregon
Salem, OR
United States of America

International Peace Operations Association (IPOA)
Washington, D.C.
United States of America

J-3 Global Solutions
Tulsa, OK
United States of America

Medical Support Solutions (MSS)
Hampshire
United Kingdom

MPRI
Alexandria, VA
United States of America

Pacific Architects and Engineers (PAE)
Los Angeles, CA
United States of America

Security Support Solutions (3S)
London
United Kingdom

Special Operations Consulting-Security Management Group (SOC-SMG)
Minden, NV
United States of America

Triple Canopy
Lincolnshire, IL
United States of America

AEGIS
London, UK

Annex II

Communication of peace and security companies at the conclusion of the meeting with the Special Rapporteur (London, 27-28 June 2005)

We the undersigned members of the peace and security industry look forward to working with the United Nations in examining the employment of the private sector in conflict/post conflict environments.

Peace and Security Companies (PSCs) within this industry fully support all appropriate international human rights instruments, norms and principles, and seek to engage the UN, NGOs and humanitarian organizations to see how we can best continue to support these norms.

In light of the fact that PSCs are frequently employed by UN Member States and the UN own entities, we strongly recommend that the UN re-examine the relevance of the term "mercenary". This derogatory term is completely unacceptable and is too often used to describe fully legal and legitimate companies engaged in vital support operations for humanitarian peace and stability operations.

The industry is keen to engage with UN mechanisms and is willing to examine a wide variety of options to ensure that the private sector continues to be an increasing and positive presence in peace and stability operations.

In light of this we intend to convene a future industry conference to develop a unified international code of conduct related to private sector operations in conflict/post conflict environments.

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Item 136 of the provisional agenda*
Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Budget for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2006-2007

Report of the Secretary-General

Summary

In accordance with General Assembly resolutions 58/255 of 23 December 2003 and 59/274 of 23 December 2004, the present report contains the resource requirements for the biennium 2006-2007 of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

The resources for the biennium 2006-2007 before recosting amount to $310,884,100 gross ($280,782,700 net) and reflect a decrease in real terms of $17,597,600 net, or 5.9 per cent, compared to the revised appropriation for 2004-2005.

* A/60/150.

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I. Introduction

1. The terms of reference of the International Tribunal for the Former Yugoslavia were established by the Security Council in its resolution 808 (1993) of 22 February 1993. The statute of the Tribunal, adopted by the Security Council in its resolution 827 (1993) of 23 May 1993, provides in article 11 that the Tribunal shall consist of three organs, namely, the Chambers, the Prosecutor and the Registry. The activities for which the Tribunal is responsible are also set out in the statute.

2. The Security Council, in its resolution 1329 (2000), expressed its continuing conviction that the prosecution of persons responsible for serious violations of international humanitarian law in the territory of the former Yugoslavia contributed to the restoration and maintenance of peace in the former Yugoslavia.

3. The report on the judicial status of the Tribunal and the prospects for referring certain cases to national courts (S/2002/678) was endorsed on 23 July 2002 by a statement of the President of the Security Council on behalf of the Council (S/PRST/2002/21). The report presented the completion strategy of the Tribunal, setting 31 December 2004 for the conclusion of all new investigations, 31 December 2008 for the completion of first instance trials and 31 December 2010 for the completion of appeals. The first major milestone has been met with the investigation of all remaining targets having being completed and the last new indictments have been confirmed by the Chambers.

4. On 28 August 2003, the Security Council adopted resolution 1503 (2003), which reaffirmed "in the strongest terms" the statement of 23 July 2002 endorsing the Tribunal's completion strategy. The Council again emphasized the importance of fully implementing the completion strategy in its resolution 1534 (2004) of 26 March 2004.

5. The completion strategy comprises two main pillars: (a) the fair and expeditious completion of trials at the Tribunal in accordance with the established timeline; and (b) the transfer of certain cases against accused persons, indicted under the authority of the Tribunal, to competent national jurisdictions in the former Yugoslavia.

6. In support of the first pillar, the Tribunal continues to undertake six concurrent trials through the use of 16 permanent and 9 ad litem judges and to complete all related appeals in the most expeditious manner. Trial efficiency has become paramount now that the Tribunal has issued its last indictment and moved to a phase focusing exclusively on trials and appeals.

7. To further ensure the completion of first instance trials by 2008, the Office of the Prosecutor will seek to join related indictments and run trials with multiple accused, subject to approval by the Chambers. The aim of joining these cases is to substantially reduce the length of proceedings by, inter alia, reducing the length of the prosecution case, reducing the number of witnesses, avoiding the repetition of evidence, avoiding the overlap of witness testimony and reducing the expense of having witnesses travel repeatedly to The Hague to give testimony. While in the long run the joining of cases will undoubtedly be more efficient and cost-effective, it will at the same time increase the complexity of work, as cases with several accused being tried simultaneously are expected to generate far more motions and interlocutory appeals than those involving a single accused.

8. The need for efficient proceedings has been further amplified by the rapid succession of recent arrivals of persons indicted by the Tribunal: since 1 December 2004, 26 indictees have arrived at the Tribunal. While the Tribunal welcomes the cooperation it has received from the States of the former Yugoslavia in apprehending these indictees, this sudden influx strains the resources of the Tribunal, which prior to December 2004 had already been working at maximum capacity. It is important to note that there are still 10 fugitives at large, including Mladic, Karadzic and Gotovina, whose timely surrender/detention is critical for the efficient completion of the trials.

9. Through its Rules Committee, plenary sessions and working groups on speeding up trials and appeals, the Chambers continues to investigate additional ways to reduce the length of proceedings, both by continued review and amendments to the Rules of Procedure and Evidence, as well as by continued implementation of the recommendations of the two judicial working groups established by the President. A good example of these efforts is the recent amendment to rule 98 bis, which is expected to reduce significantly the amount of time required for the trial chamber to deliver decisions concerning judgement of acquittal motions at the close of the prosecution's case. The Working Group on Trials is placing special emphasis on the efficiency of the pretrial phase, as this can have a significant impact on the subsequent proceedings.

10. The Tribunal will be implementing a number of concrete measures aimed at reducing the length of trials and improving efficiency, such as the Defence Counsel Network, which allows more effective distribution of case-related documents, and the development of e-Court, which was initiated as a pilot scheme in 2004 to optimize the courtroom proceedings and is now being applied in trials. This is in addition to the other efficiency measures implemented in 2004-2005, namely, the establishment of the Office of Document Management, which has saved the Tribunal valuable translation resources; the pretrial and trial lump-sum defence payment system, which compels defence teams to prepare their strategies in advance of trial; and the Electronic Disclosure System, which has reduced the time required by the Office of the Prosecutor to meet its disclosure obligations to the defence and has allowed the defence to conduct its own searches, thus enhancing equality of arms and yielding savings. Furthermore, the Tribunal will put its judicial database online so that defence counsel, courts within the former Yugoslavia and other interested parties can access and search the public jurisprudence of the Tribunal remotely, thus saving travel and reproduction costs.

11. In support of the second pillar, the Tribunal will continue to play an active role, despite its stretched resources, in facilitating the referral of cases to national courts. In particular, the Tribunal, along with the Office of the High Representative in Bosnia and Herzegovina, has played a significant role in forming the War Crimes Chamber within the State Court of Bosnia and Herzegovina. It was inaugurated in March 2005. Croatia and Serbia and Montenegro have also established special courts focusing on war crimes. At present, a referral bench, which was established by the President in September 2004, is considering 12 referrals to national jurisdictions involving 20 accused under rule 11 bis. Bosnia and Herzegovina, Croatia and Serbia and Montenegro have all been named by the Prosecutor in those requests as possible recipients of the referred cases. On 17 May 2005, the Tribunal issued its first decision on a prosecutor's motion to refer a case to the domestic authorities of a State. This decision involved the referral of the case against

Radovan Stankovic to the War Crimes Chamber of the State Court of Bosnia and Herzegovina, which is currently under appeal.

12. Within the Office of the Prosecutor, the transition team continues to oversee: (a) the preparation of the transfer of cases from the Tribunal to competent national jurisdictions in support of the completion strategy and (b) the preparation of dossiers for all other lower-level perpetrators of war crimes identified during investigations of the Office, with a view to transferring them to the appropriate prosecuting authorities in the countries of the former Yugoslavia. Another important achievement was the completion in 2004 of the "rules of the road" project, which was funded from extrabudgetary resources and provided for the review by the Office of cases from prosecutors in the region to ensure that they met international standards.

13. The Tribunal is working to establish procedures to ensure that the practicalities of referring a case to another jurisdiction are handled effectively. A Tribunal-wide transition coordination committee has been established to ensure the smooth and seamless transfer of cases and prepare for the activities associated with such transfers, including defence counsel transitions, transfer of accused and witness protection matters.

14. With the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone also preparing to complete their respective mandates, the Tribunal has worked with its counterparts over the course of the biennium 2004-2005 to discuss common issues arising from their completion strategies. The cooperation of these three institutions will result in a best practices manual encompassing the most effective and efficient practices of those international war crimes courts.

15. The overall level of resources for the biennium 2006-2007 amounts to $310,884,100 gross ($280,782,700 net; at 2004-2005 rates (i.e., before recosting to 2006-2007 rates)), reflecting a real decrease in resources of $18,617,800 gross, or 5.7 per cent ($17,597,600 net, or 5.9 per cent), compared with the revised appropriation for the biennium 2004-2005. The decrease consists of reductions under the Chambers ($72,900), the Office of the Prosecutor ($12,968,900) and the Registry ($5,576,000).

16. The total number of proposed posts of 990 for the biennium 2006-2007 will remain unchanged vis-à-vis 2005 levels. However, as the Tribunal's focus shifts towards high-level perpetrators, multiple-accused cases and more complex appeals, a number of internal redeployments are being proposed to strengthen trial and appellate support work in both the Office of the Prosecutor and the Chambers, as described below.

17. With the progress made in transferring cases/dossiers to local authorities and reaching trial readiness in a number of important cases at the pretrial stage, as well as the expected completion of the Milosevic and other major trials, the Tribunal anticipates a gradual reduction of workload in the Investigations Division and the Information and Evidence Section of the Office of the Prosecutor during 2006-2007. By contrast, trial and appeals work in both the Office of the Prosecutor and the Chambers is expected to increase considerably in the next biennium, in terms of both volume and complexity, owing to the following factors: (a) an increase in the rate of arrests and the pace of trials; (b) an increase in the number of cases against high-level accused; (c) an increase in the number of accused in trial resulting from

the multiple-accused cases; and (d) an increase in the number and complexity of appeals both interlocutory and on the merits. In addition, the workload of the Chambers will be affected by the establishment of a "referral bench" to deal with the transfer of cases to the region.

18. In view of the above considerations, 20 internal redeployments are being proposed for 2006-2007 to strengthen trial and appellate support work in both the Office of the Prosecutor and the Chambers, as follows:

(a) The Appeals Unit of the Immediate Office of the Prosecutor would be strengthened with the addition of a total of seven Professional posts. Four posts (2 P-4 and 2 P-3) would be redeployed from the Investigations Division and three posts (2 P-3 and 1 P-2) from the Information and Evidence Section;

(b) The Prosecution Division would be strengthened by redeploying eight Professional posts (5 P-3 and 3 P-2) from the Investigations Division;

(c) The Chambers Legal Support Section of the Judicial Support Division would be supplemented with five Professional posts (2 P-4, 1 P-3 and 2 P-2) through redeployment from the Division of Administration.

19. Furthermore, pursuant to recommendations of the Office of Internal Oversight Services, all functions related to electronic data-processing performed by the Systems Support Unit of the Office of the Prosecutor Information and Evidence Section, along with its existing posts, will be consolidated within the Registry's Information Technology Services Section. Accordingly, 11 posts (1 P-3, 1 P-2 and 9 General Service (Other level)) are being proposed for redeployment to the Information Technology Services Section of the Division of Administration effective 1 January 2006.

20. Changes in overall non-post provisions reflect reduced requirements, mainly under mission subsistence allowance, general temporary assistance, temporary assistance for meetings, travel of staff, defence counsel fees, contractual verbatim reporting, supplies, furniture and equipment and alteration to premises, partly offset by increased requirements under salaries and allowances to judges owing to an increase of 6.3 per cent effective 1 January 2005; expert witnesses owing to an increase in the number of experts expected to testify before the Tribunal; and grants and contributions for the Tribunal's share of field security arrangements.

21. The recosting of the proposed budgetary provisions at 2006-2007 rates contained in the present report is preliminary. For salaries related to posts in the Professional and higher categories, adjustments reflect the projected movement of post adjustment indices in 2005. Similarly, with regard to General Service salaries, recosting includes the forecast of probable cost-of-living adjustments based on anticipated inflation rates. The average vacancy rates for Professional and General Service posts realized in 2004 are proposed for 2006-2007. No attempt is made to forecast the movement of the relevant currency vis-à-vis the United States dollar at this time. The proposed budget will be recosted in December 2005 on the basis of the latest data on actual inflation experience, the movement of post adjustment indices in 2005, the outcome of salary surveys, if any, salary expenditure experience and the evolution of operational rates of exchange in 2005.

22. During the biennium, extrabudgetary resources are estimated at $4,585,600, reflecting a net decrease of approximately $1.5 million, to be utilized for a variety of activities of the Tribunal. The decrease results from the completion of ongoing projects for which full funding has been received.

Table 1
Percentage distribution of resources by component

	Regular budget	*Extrabudgetary*
1. The Chambers	3.0	
2. Office of the Prosecutor	26.7	7.5
3. The Registry	70.3	92.5
Total	**100.0**	**100.0**

Table 2
Resource requirements by component
(Thousands of United States dollars)

(1) *Assessed budget*

Component	*2002-2003 expenditure*	*2004-2005 appropriation*	*Resource growth*		*Total before recosting*	*Recosting*	*2006-2007 estimate*
			Amount	*Percentage*			
1. The Chambers	8 808.6	9 522.9	(72.9)	(0.8)	9 450.0	49.6	9 499.6
2. Office of the Prosecutor	95 115.3	96 188.2	(12 968.9)	(13.5)	83 219.3	2 509.0	85 728.3
3. The Registry	180 389.9	223 790.8	(5 576.0)	(2.5)	218 214.8	7 400.2	225 615.0
Total expenditures (gross)	**284 313.8**	**329 501.9**	**(18 617.8)**	**(5.7)**	**310 884.1**	**9 958.8**	**320 842.9**
Income							
Income from staff assessment	33 447.9	30 880.9	(1 029.0)	(3.3)	29 851.9	1 065.7	30 917.6
Other income	200.4	240.7	8.8	3.7	249.5		249.5
Total requirements (net)	**250 665.5**	**298 380.3**	**(17 597.6)**	**(5.9)**	**280 782.7**	**8 893.1**	**289 675.8**

(2) *Extrabudgetary*

	2002-2003 expenditure	*2004-2005 estimate*	*2006-2007 estimate*
Activities	12 580.4	6 030.4	4 585.6
Total	**12 580.4**	**6 030.4**	**4 585.6**
Total (1) and (2)	**263 245.9**	**304 410.7**	**294 261.4**

Table 3
Post requirements

Category	Assessed budget		Extrabudgetary		Total	
	2004-2005	2006-2007	2004-2005	2006-2007	2004-2005	2006-2007
Professional and above						
USG	1	1	—	—	1	1
ASG	1	1	—	—	1	1
D-2	1	1	—	—	1	1
D-1	4	4	—	—	4	4
P-5	35	35	—	—	35	35
P-4/3	295	295	1	1	296	296
P-2/1	117	117	1	1	118	118
Subtotal	**454**	**454**	**2**	**2**	**456**	**456**
General Service						
Principal level	11	11	—	—	11	11
Other level	370	370	10	4	380	374
Subtotal	**381**	**381**	**10**	**4**	**391**	**385**
Other						
Security Service	155	155	—	—	155	155
Total	**990**	**990**	**12**	**6**	**1 002**	**996**

II. Programme of work and resource requirements

A. The Chambers

23. The Chambers comprises the 25 judges of the Tribunal. It is the judicial organ of the Tribunal performing its core activity: the determination of the guilt or innocence of persons accused of serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991. Through its judicial activities, the Chambers will continue to ensure that all accused persons receive a fair trial without undue delay.

24. The main objective of the Chambers for the biennium 2006-2007 will be to continue to undertake six trials at a time through the use of 16 permanent and 9 ad litem judges and to complete all interlocutory appeals and appeals from judgement as expeditiously as possible. This has become even more essential because of the recent increase in new arrivals at the Detention Unit. Since 1 December 2004, the total number of indictees detained in the Detention Unit or on provisional release has risen from 52 to 78. Each new arrival generates an increase in workload through initial appearances, motions (e.g., for provisional release or concerning the form of the indictment), status conferences and regular pretrial preparation pursuant to rule 65 ter of the Rules of Procedure and Evidence. The Chambers will continue to have all of its capacity fully utilized during the biennium.

25. During the period spanning 2004 to the first half of 2005, the Tribunal had six trials running involving 13 accused. The verdict in three trials was delivered during that period. In addition, six guilty pleas were rendered. During the same period, the Tribunal also saw 17 post-judgement cases on appeal involving 21 convicted persons. Final judgement on appeal was rendered in eight cases. For the remainder of 2005, taking into consideration the likelihood that a number of cases will be joined, it is anticipated that as many as four additional trials will commence involving at least 20 accused. Pretrial activity (excluding the four additional trials anticipated to start in the second half of 2005) will include at least six cases involving 16 accused. Case referral activity under rule 11 bis includes at least nine referrals involving 18 accused. Any rule 11 bis case that is eventually not referred will be added to the pretrial caseload.

26. During the biennium 2006-2007, it is expected that the Chambers will work on the following: 9 trials (6 running at any one time), 10 pretrial procedures, 40 pre-appeal procedures, 40 appeals from final trial chamber judgements or from 11 bis referral decisions (25 from the International Tribunal for the Former Yugoslavia and 15 from the International Criminal Tribunal for Rwanda; appeals chamber judges and staff work on appeals for both Tribunals) and all interlocutory appeals arising from the foregoing. The referral bench of the Chambers will continue to consider applications by the Prosecutor to transfer cases to domestic courts in the former Yugoslavia, a key component of the Prosecutor's approach to a timely completion of her duties. It is important to note that, even if successful, such transfers will still require significant work from the Chambers judges and staff to ensure a smooth transition. In addition, even in the event that all or a majority of the applications are successful, they still represent only a limited number of the cases (12) and accused (20) before the Tribunal. Regardless of the outcome of the decisions, it is expected that most of them will be appealed.

27. Furthermore, the Chambers awaits the commencement during the biennium 2006-2007 of four complex cases involving up to nine accused each. These multiple-accused cases result from the Prosecutor's policy of joining related indictments whenever possible and running trials with four or more accused. In the immediate term, such cases will be extremely demanding on the resources of the Chambers. The unprecedented number of accused being dealt with at the pretrial phase will put excessive strain on existing pretrial capacity. Also, cases with several accused being tried simultaneously generate far more motions and interlocutory appeals than cases involving a single accused. Both of these factors will necessitate resource reallocation at a time when the Chambers is already working at maximum capacity and will negatively affect the ability of the Chambers to discharge its current workload efficiently. However, the multiple-accused approach is considered necessary as, in the longer term, it should reduce overall trial time substantially in comparison with holding separate trials for each of the accused. It is notable, for example, that while on average 8 accused were on trial at any one time during 2004-2005, an average of 24 accused are expected to be on trial at any one time during 2006-2007.

28. To allow for a high level of courtroom activity, the Chambers has already maximized the use of available resources through the operation of the three courtrooms over two shifts daily, exceeding normal working hours.

29. Through its Judicial Practices Working Group, Rules Committee and plenary sessions, the Chambers will investigate additional ways to reduce the length of proceedings, both by continuing to review the Rules of Procedure and Evidence and by implementing the recommendations of two working groups of judges established by the President to consider ways of speeding up trials and appeals. A good example of these efforts is the recent amendment to rule 98 bis, which is expected to reduce significantly the amount of time required for the trial chamber to deliver decisions concerning judgement of acquittal motions. That rule provides that at the close of the Prosecutor's case, the trial chamber shall, after hearing submissions of the parties, enter a judgement of acquittal on any count if there is no evidence capable of supporting a conviction. In the past, this procedure had resulted in written submissions, hearings and a written decision, sometimes requiring two or three months before the Chamber was in a position to render its decision. The rule has now been changed to require that both parties' submissions and the trial chamber's decision be delivered orally. It is expected that this rule change will result in a considerable saving of time. The Working Group will continue to place special emphasis on the pretrial phase of the proceedings, as this can have a significant impact upon the trial proceedings.

30. The numerous reforms undertaken over the previous two years, including the conduct of pretrial procedures by the senior legal officers of the Chambers, the additional powers conferred on judges to control proceedings and the requirement of certification of interlocutory appeals, will continue to improve the pace of judicial activity.

31. Finally, the workload of the Chambers may benefit from the referral of an undetermined number of cases to competent national jurisdictions in the former Yugoslavia pursuant to rule 11 bis of the Rules of Procedure and Evidence.

32. The Office of the President provides advice and assistance as well as logistical and secretarial support to the President of the Tribunal in the exercise of his or her functions. The President is the highest authority of the Tribunal, acting as its institutional head. He or she is responsible for the overall execution of the mission of the Tribunal and for representing the Tribunal before its parent body, the Security Council, as well as the General Assembly. The President performs representational functions vis-à-vis heads of missions, embassies of Member States and the Secretary-General.

33. Pursuant to rule 19 of the Rules of Procedure and Evidence, the President of the Tribunal also coordinates the work of the Chambers, supervises the activities of the Registry and exercises all other functions conferred on him or her by the statute and the Rules. These functions can be divided into the following three categories:

(a) Judicial functions: pursuant to article 14(2) of the International Tribunal for the Former Yugoslavia statute and article 12(2) of the statute of the International Criminal Tribunal for Rwanda, the President of the Tribunal is the presiding judge of the appeals chambers of both Tribunals. The President is the sole authority responsible for assessing reports that a State has failed to comply with an obligation under the statute and, depending on the circumstances of the case, for notifying the Security Council thereof;

(b) Internal functions: pursuant to rule 23 bis of the Rules, the President of the Tribunal is the Chair of the Coordination Council responsible for ensuring the coordination of the activities of the three organs of the Tribunal;

(c) Quasi-judicial functions: pursuant to rule 23, the President is the Chair of the Bureau and is responsible for reviewing all major matters arising from the functioning of the Tribunal. The President also chairs, pursuant to rule 19(A), the plenary meetings of the Tribunal during which the judges adopt and amend the Rules, decide upon matters relating to the internal functioning of the Chambers and the Tribunal and determine or supervise the conditions of detention.

34. Pursuant to the statute, the Rules and various directives, the President of the Tribunal is entrusted with the right of final review pertaining to matters such as the enforcement of sentences, legal aid/defence counsel issues and the application of such directives as the Rules of Detention and the Directive on the Assignment of Defence Counsel. In accordance with article 13 ter of the statute, the President is also responsible for requesting the Secretary-General to appoint ad litem judges to the trial Chambers.

35. For the next biennium, a matter of primary importance for the Office of the President will be to continue to carry forward the completion strategy initiated by the Tribunal and endorsed by the Security Council in the presidential statement dated 23 July 2002 (S/PRST/2002/21). Coordination must be maintained, with States and international organizations contributing, as appropriate, to the strengthening of national judicial systems of the States of the former Yugoslavia in order to facilitate the implementation of this policy.

Outputs

36. During the biennium, the following outputs will be delivered:

(a) Courtroom activities: initial appearances, status conferences, pretrial conferences, trials, appeals, reviews and delivery of judgements;

(b) Decisions relating to, inter alia: review and confirmation of indictments, arrest and other warrants, various pretrial motions, motions during trial and appeal, applications for additional evidence and interlocutory appeals and reviews;

(c) Judgements in relation to trials and appeals (appeal activities are for both Tribunals);

(d) Review of the Rules of Procedure and Evidence, Practice Directions and the Rules of Detention and proposal of amendments to the statute of the Tribunal to the Security Council;

(e) Reports of the President to the Security Council, as requested by a trial chamber or the Prosecutor, as to non-compliance by States with orders of the Tribunal;

(f) Annual report to the General Assembly and the Security Council and requests for international assistance to States;

(g) Press releases on matters of importance to the Tribunal as a whole;

(h) Special events: hosting of visiting dignitaries, usually at the level of ambassador or foreign minister, and Heads of State; establishing and maintaining

high-level contacts with Governments of Member States to facilitate and improve cooperation with the Tribunal; and swearing in of new judges;

(i) Non-governmental organizations: requesting non-governmental organizations and others to submit amicus curiae briefs on issues of general importance under consideration by the Chambers;

(j) Participation in activities within the United Nations system: annual statement by the President to the General Assembly, participation in meetings concerning the role of the Tribunal within the United Nations system, cooperation with the International Criminal Tribunal for Rwanda and participation in discussions concerning other international judicial entities;

(k) Liaison with the Office of the High Representative and the State Prosecutor of Bosnia and Herzegovina in relation to the referral of cases.

Table 4
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2004-2005*	*2006-2007 (before recosting)*	*2004-2005*	*2006-2007*
Assessed budget				
Non-post	9 522.9	9 450.0	—	—
Total	**9 522.9**	**9 450.0**	—	—

37. Non-post resources in the amount of $9,450,000, reflecting a decrease of 72,900, will provide compensation for 23 judges, the hiring of consultants and travel resources for the judges. The reduction relates to lower requirements for the common costs of judges, consultants and travel, partially offset by the increase in the annual salaries and pensions of judges approved by the General Assembly in its resolution 59/282 of 13 April 2005, with effect from 1 January 2005.

38. The cost of the remaining two judges is included in the budget for the International Criminal Tribunal for Rwanda (A/60/265).

B. Office of the Prosecutor

39. The biennium 2004-2005 has been a period of increased activity for the Office of the Prosecutor, marked by an increase in efficiency and attainment of the first major step of the completion strategy, namely, the completion of all new or ongoing investigations and the submission of all remaining indictments. In December 2004, the Office of the Prosecutor issued the final indictments.

40. In addition to ending all pre-indictment investigations, another important step of the completion strategy was the commencement of the process of transferring cases under rule 11 bis and investigation dossiers to domestic jurisdictions. During 2004-2005, the Prosecutor submitted to the Tribunal's referral bench, pursuant to rule 11 bis, requests for the transfer of 12 cases involving 20 accused to relevant national jurisdictions in Bosnia and Herzegovina, Croatia and Serbia and Montenegro. These are currently being considered by the referral bench to

determine whether all conditions for transfer have been met. Another important achievement was the completion in 2004 of the "rules of the road" project, funded from extrabudgetary resources, under which the Office of the Prosecutor reviewed cases from prosecutors in the region to ensure that they met international standards. After having reviewed 1,072 prosecution files involving 3,360 suspects, the review function was transferred to the State Prosecutor in Bosnia and Herzegovina as from 1 October 2004.

41. In line with those developments, the Investigations Division has been reorganized and restructured around two main components: providing support for cases ready for trial, all ongoing trials and appeals and, through the establishment of a transition team, supporting the transfer of rule 11 bis cases to local courts and investigation dossiers from the Office of the Prosecutor to local prosecutors. This reorganization included the gradual reduction of 79 posts (65 Professional and 14 General Service) in the Investigations Division during the biennium 2004-2005. A further reduction of 12 Professional posts is being proposed in the biennium 2006-2007, bringing the total reduction in the Division to 91 posts, which represents a 42 per cent reduction vis-à-vis 2004 staffing levels.

42. During the biennium 2006-2007, the Office of the Prosecutor will, in view of the completion strategy, continue to undertake concrete measures aimed at reducing the length of trials and improving judicial efficiency. One of the proposed measures is to join, wherever possible, related indictments and run trials with more than four accused. The aim of joining leadership cases is to substantially reduce the length of proceedings by, inter alia, reducing the length of the prosecution case, reducing the number of witnesses, avoiding the repetition of evidence, avoiding the overlap of witness testimony, reducing the expense of witnesses travelling repeatedly to The Hague and reducing the time constraints of staff members in the Office of the Prosecutor.

43. Furthermore, during the biennium 2006-2007, the Office of the Prosecutor will complete the process of transferring cases under rule 11 bis to local authorities. The number of cases to be transferred to domestic entities will depend on the outcome of decisions from the Chambers referral bench, which is to decide whether those cases meet the conditions required for their transfer to local jurisdictions. The Office of the Prosecutor will continue to provide the resources required to support the transfer of cases, which may include addressing the legal issues that may be raised during eventual appeals proceedings. The transition team will continue to invest substantial effort in supporting prosecutions in States of the former Yugoslavia by providing all required assistance to domestic institutions when cases and investigation dossiers have been successfully transferred.

44. In order to keep up with the pace and schedule of the Chambers and fulfil the goals of the completion strategy, it is crucial that the Office maintain adequate resources in the Prosecution Division, the Investigations Division and the Appeals Section. The Office has now entered a phase during which most of its resources will be fully shifted towards providing support to the pretrials phase, trials and appeals. While all investigations had been brought to the indictment stage by the end of 2004, the Office of the Prosecutor will have to maintain a sufficient number of trial attorneys dedicated to completing trials and appeals successfully and a core investigative capacity (including investigators, analysts and research staff) to support those trials and appeals.

45. In order to rationalize its resources, the Prosecution Division will undergo a restructuring and realignment of resources with a view to focusing its efforts in support of pretrial and trial work. The proposed structure envisages the consolidation of the Trial Section, the Legal Advisory Section and the Team Legal Advisers and Co-Counsel Section into a single Prosecution Section, which will be assisted by the Trial Support Unit. For the biennium 2008-2009, it is anticipated that the Office of the Prosecutor's coordination of legal issues, particularly between investigations, prosecutions and appeals, will need to be strengthened, within the existing resources of the Office.

46. The Office of the Prosecutor has prepared a workload plan setting out the requirements for all cases to be tried between now and 2008. The plan foresees an adequate allocation of resources to all cases whether on trial or at the pretrial phase, as well as cases of accused that have not yet been transferred to The Hague. To facilitate the review, cases have been grouped according to their level of complexity.

47. It will be recalled that the workload review conducted in 2003 was based on two categories of cases grouped according to their level of complexity, namely: level I cases, involving leadership and high-level perpetrators, and level II cases, involving other serious perpetrators. For the biennium 2006-2007, taking into consideration the anticipated workload in the Office of the Prosecutor as a whole and the proposal to join a number of leadership cases, a third category has been added, which includes cases involving more than four accused. Under the new classification, a level I case would cover complex leadership cases with more than four accused; a level II case would involve leadership and high-level perpetrators; and a level III case would encompass all other serious perpetrators.

48. Factors that are considered in determining the complexity of cases include the number and nature of counts in the indictment; possible amendments of the indictment; the nature of preliminary motions and challenges of the Tribunal's jurisdiction; the number of accused joined in the same case; the number of witnesses and documents involved; the geographical territory covered in the indictment; the previous ranking of the accused within the military or political hierarchy (where appropriate); and the legal issues expected to arise during the course of the trial.

49. Level I cases, because of their complexity and scope generate greater workload. On average, a level I case would encompass some 500 witnesses, whereas a level II case would cover some 300 witnesses and a level III case 150 witnesses. A level I case would also involve approximately 5,000 exhibits as compared with 3,000 for a level II case and 1,000 for a level III case. Furthermore, it is estimated that on average a level I case would require the review of some 50,000 documents in order to meet the disclosure obligations under rule 68, whereas a level II case would involve some 30,000 documents and a level III case 10,000.

50. Taking into account the anticipated joinders of cases, it is estimated that a total of 10 cases involving 27 accused will be at the pretrial stage during 2006-2007. In terms of trials, the Tribunal anticipates that during 2006-2007 there will be six cases in trial at one time (four level I cases, one level II case and one level III case) involving 24 accused, all of which will be tried simultaneously.

51. During the coming years, as the trials focus on high-level perpetrators and multiple-accused cases, there will be a consequential increase, both in terms of volume and complexity, of cases before both the trial and appeals chambers. The

workload review revealed that, with existing staffing levels, the Prosecution Division and the Appeals Unit will have difficulty in coping with the quickened pace and heavier schedule of the Chambers, which is due in particular to four important factors: (a) an increase in the rate of arrests and the pace of trials; (b) an increase in the number of cases against high-level accused; (c) an increase in the number of accused in trial resulting from the multiple-accused cases; and (d) an increase in the number and complexity of appeals both interlocutory and on the merits.

52. Conversely, during the biennium 2006-2007 the Investigations Division and the Information and Evidence Section are expected to experience a gradual reduction in workload resulting from the following developments: (a) the progress made in reaching trial readiness for a number of cases at the pretrial stage; (b) the expected completion in the first instance of level II cases such as the Milosevic and the Krajisnik cases; and (c) the progress made in transferring rule 11 bis cases and investigation dossiers to local authorities.

53. In that light, it is proposed that a total of 15 Professional posts (12 from the Investigations Division and 3 from the Information and Evidence Section) will be redeployed to the Prosecution Division and the Appeals Unit as follows:

(a) Appeals Unit of the immediate office of the Prosecutor: four posts (2 P-4 and 2 P-3) from the Investigations Division and three posts (2 P-3 and 1 P-2) from the Information and Evidence Section. The new positions will assist with the preparation and drafting of motions, the collection of documents and other material, the formatting of appeal briefs, ensuring compliance with orders and directives of the Appeals Chamber and maintaining contacts with the defence counsel and the Registry;

(b) Prosecution Division: eight posts (5 P-3 and 3 P-2) from the Investigations Division. The Division will undergo a restructuring and realignment of resources with a view to focusing its efforts in support of pretrial and trial work. The proposed structure envisages the consolidation of the Trial Section, the Legal Advisory Section and the Team Legal Advisers and Co-Counsel Section into a single Prosecution Section assisted by the Trial Support Unit. This will allow the Prosecution Division to adequately support pretrial and trial proceedings in coping with the quickened pace and heavier schedule of the Chambers, which is due in particular to three important factors: (a) an increase in the rate of arrests and the pace of trials; (b) an increase in the number of cases against high-level accused; and (c) an increase in the number of accused in trial resulting from the multiple-accused cases.

54. Furthermore, pursuant to recommendations of the Office of Internal Oversight Services, all functions related to electronic data processing performed by the Systems Support Unit of the Information and Evidence Section, together with its staffing complement, will be consolidated within the Registry's Information Technology Services Section, which entails the redeployment of a total of 11 posts (1 P-3, 1 P-2 and 9 General Service (Other level)) effective 1 January 2006.

Table 5
Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: To investigate and prosecute in a timely and fair manner persons responsible for serious violations of international humanitarian law and ensure that the requirements of the Security Council are fulfilled with regard to implementation of the completion strategy and to position the Office for the transfer of criminal cases against accused persons to the national courts of the former Yugoslavia.

Expected accomplishments	Indicators of achievement
(a) Gradual transfer of cases to national courts	(a) Number of cases transferred to national courts *Performance measures*: 2002-2003 actual: None 2004-2005 estimate: 11 cases 2006-2007 target: 16 investigation dossiers
(b) Conduct of six trials concurrently	(b) (i) Number of ongoing trials *Performance measures*: 2002-2003 actual: 6 2004-2005 estimate: 6 concurrently 2006-2007 target: 6 concurrently (ii) Number of trials completed *Performance measures*: 2002-2003 actual: 12 2004-2005 estimate: 12 2006-2007 target: 9 (includes mega-trials)
(c) Enhanced readiness of cases in pretrial litigation	(c) (i) Number of cases in pretrial litigation *Performance measures*: 2002-2003 actual: 18 2004-2005 estimate: 18 2006-2007 target: 11

(ii) Percentage of deadlines met without extensions

Performance measures:

2002-2003 actual: 85 per cent

2004-2005 estimate: 100 per cent

2006-2007 target: 100 per cent

External factors

55. The Office is expected to meet its objectives and expected accomplishments on the assumption that: (a) the States of the former Yugoslavia cooperate in the arrest and transfer of indicted persons to The Hague and in the provision of information; (b) there is normal functioning of judiciaries in the States of the former Yugoslavia, including the War Crimes Chamber of the State Court of Bosnia and Herzegovina, so that cases may be transferred and tried at the domestic level; and (c) there are no delays in the proceedings for reasons beyond the Tribunal's control, such as illness of the accused, unforeseen disclosure of material, requests for replacement of defence counsel, requests for review of cases already tried, other motions affecting the proceedings and the availability of witnesses to certify statements and provide testimony.

Outputs

56. During the biennium, the following outputs will be delivered:

(a) Investigative outputs: witness statements, expert witness statements, summaries of witness interviews, witness schedules, protective measures for witnesses; reports of on-site investigations; reports on military and civilian political structures and events, arrests of fugitives, intelligence related to suspects and fugitives and missions; evidence collection; reports generated through computer searches of collected evidence for documents relevant to investigations, trials and appeals and reports generated by computer searches for purposes of disclosure under different rules; demographic reports and maps; requests for assistance; witness binders; briefs of evidence for submission of indictments; unofficial translations and English summaries of documents written in Bosnian/Croatian/Serbian; indictment reviews; limited project-based exhumation work; and training;

(b) Prosecution outputs: filings related to the prosecution of cases and appeals including: indictments, amended indictments, motions, responses to defence motions, witness statements, opening briefs, closing briefs, sentencing briefs, appeals on the merits, interlocutory appeals, plea agreements and miscellaneous applications for orders from judges or trial chambers, including applications for subpoenas, search warrants, the detention of suspects and the transmission of arrest warrants;

(c) Outputs related to trial preparation: exhibits, witness summaries, extensive searches for relevant material to be disclosed to the defence; training courses including on induction, legal issues and advocacy; and legal opinions on issues of international law;

(d) Information management outputs: indexes of evidentiary material and information sources, including witness statements, video- and audiotapes, intelligence material submitted under rule 70, press and other relevant freely accessible material; custody, control and storage of material submitted under chain-of-custody procedures, including decontamination and preservation; software systems and modification of computer systems and database applications for the Office of the Prosecutor, including electronic disclosure, CaseMap and Sanction software packages; and training courses for all staff;

(e) Management outputs: policy papers and directives, guidelines related to legal practice, annual reports, funding proposals, budget preparation, reports on activities of States relevant to cooperation; press releases, speeches, statements and briefings.

Table 6
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2004-2005*	*2006-2007 (before recosting)*	*2004-2005*	*2006-2007*
Assessed budget				
Post	64 469.2	56 349.6	336	325
Non-post	19 060.2	15 720.5	—	—
Staff assessment	12 658.8	11 149.2	—	—
Subtotal	**96 188.2**	**83 219.3**	**336**	**325**
Extrabudgetary	937.0	345.0	—	—
Total	**97 125.2**	**83 564.3**	**336**	**325**

57. Resources under posts and staff assessment in the amount of $56,349,600 and $11,149,200 respectively provide for 325 posts. The net reduction of $8,119,600 and $1,509,600 for posts and staff assessment respectively relates to the adjustment to the provision made in 2004 for the 61 posts abolished during 2005 and the 13 posts redeployed to the Registry in 2005 and the outward redeployment of 11 posts resulting from the consolidation of the System Support Unit of the Office of the Prosecutor with the Information Technology Services Section of the Registry effective January 2006.

58. The provision for non-post objects of expenditure in the amount of $15,720,500 provides for general temporary assistance (pretrial support, document indexing and research and analysis), overtime, mission subsistence allowance for staff posted to field offices, expert witnesses and consultants to assist investigators in the pretrial stage of investigations, travel of investigators and prosecutors and contractual services for ongoing training of the staff in the Office of the Prosecutor. The decrease of $3,339,700 reflects reduced requirements mainly for mission subsistence allowance, general temporary assistance and travel as a result of the reduction in the number of international staff at field locations and the completion of investigations.

C. Registry

59. The Registry is responsible for the judicial administration of the Tribunal. It is composed of four main organizational units, namely, the Office of the Registrar, the Judicial Support Division, the Registry Advisory Section on Legal and Policy Matters and the Division of Administration. For budgetary purposes, the Office of the President and the resident auditors and investigators are included under the Registry as well.

60. For the biennium 2006-2007, the Registry's focus continues to be centred on the implementation of the completion strategy, the two main objectives of which are: (a) the expeditious and fair trials of high-level accused and (b) the transfer of mid- and lower-level accused to competent national jurisdictions.

61. In support of the first objective, the Registry continues to support and facilitate the simultaneous conduct of six trials. The Registry's capacity will continue to be fully utilized and will be dedicated to ensuring efficient and fair trials.

62. Efficient trials will become increasingly important during the biennium 2006-2007 as the Tribunal's focus shifts towards high-level perpetrators and multiple-accused cases and as the number of indictees in the custody of the Tribunal rises. The need for efficient proceedings has been increased by a rapid succession of recent arrivals of persons indicted by the Tribunal. For 2006-2007, it is expected that 10 fugitives will surrender or be arrested, further increasing the workload of the Tribunal.

63. In addition, the shift in the Tribunal's cases towards high-level accused will also increase the complexity of trials and appeals and by extension the work of those in the Registry supporting first instance and appeal proceedings. Trial complexity is also expected to increase as a result of the joining of indictments involving the same crime base, which will lead to multiple (up to nine) accused in a single trial. Multiple-accused cases will undoubtedly be more efficient and make trials faster since the crime base will not be required to be proven in several separate trials. However, this initiative will at the same time generate additional workload, as cases with multiple accused being tried simultaneously are expected to generate far more motions and interlocutory appeals than those involving a single accused. Furthermore, the establishment of a referral bench in response to the Prosecution's motions under rule 11 bis to refer cases to the region will also require additional support. All of these factors will significantly affect the workload of the Chambers Legal Support Section.

64. Efficiency has increased within the Registry through the establishment of the Office of Document Management, which has saved the Tribunal valuable translation resources; the introduction of the pretrial and trial lump-sum defence payment system, which compels defence teams to prepare their strategies in advance of trial; and the Defence Counsel Network, allowing more effective distribution of case-related documents. The Registry is currently exploring and testing further methods of increasing courtroom efficiency, including the development of e-Court, which is a pilot initiative to optimize courtroom proceedings.

65. In support of the second objective, the Registry has played a central coordinating role in assisting the development of the War Crimes Chamber within the State Court of Bosnia and Herzegovina. The Registry has established a transition

coordinating committee to consider the practicalities associated with the transfer of cases to national jurisdiction, specifically the transfer of accused, the transition of defence counsel and the continuing protection of witnesses. At the same time, the Chambers Legal Support Section will be supporting the additional work resulting from the establishment of a referral bench in response to the prosecution's motion under rule 11 bis.

66. The Chambers Legal Support Section has undertaken a rigorous review of all cases at the pretrial, trial and appeal stages. To facilitate the review, cases have been grouped according to their level of complexity with a view to determining the total anticipated workload in 2006-2007. Five main developments will affect the workload of the Section during the biennium 2006-2007:

(a) An increase in the rate of arrest and the pace of trials;

(b) An increase in the number of cases against high-level accused;

(c) An increase in the number of accused in trial resulting from multiple-accused cases (mega-cases);

(d) An increase in the number and complexity of appeals both interlocutory and on the merits;

(e) The establishment of a referral bench in response to the prosecution's motions under rule 11 bis.

67. All of the above factors will significantly affect the workload of the Chambers Legal Support Section. The review of projected workload revealed that with existing staffing levels, the Chambers Legal Support Section will have difficulty in coping with the pace of trial activity and, by extension, in meeting the targets of the completion strategy. Against this background, it is apparent that a strengthening of the Chambers Legal Support Section will be required during 2006-2007.

68. On that basis, it is proposed that a total of five posts (2 P-4, 1 P-3 and 2 P-2) from the Division of Administration be redeployed to the Chambers Legal Support Section under the Judicial Services Division. This is the result of a restructuring within the Division with a view to maximizing its resources through the consolidation and streamlining of all administrative functions.

Table 7

Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: The efficient administration and servicing of the Tribunal by the management of judicial, administrative and legal support to the Chambers, the Office of the Prosecutor and, in a limited fashion, the defence, in line with the statute of the Tribunal, the Rules of Procedure and Evidence, United Nations regulations and rules and the Tribunal's completion strategy

Expected accomplishments	Indicators of achievement
(a) Timely implementation of formal actions taken in accordance with the agreed-upon completion strategy	(a) Percentage of actions completed on time *Performance measures* 2002-2003 actual: 95 per cent

	2004-2005 estimate: 95 per cent
	2006-2007 target: 95 per cent
(b) Increased public awareness of the activities of the Tribunal	(b) Number of visitors to the Tribunal's website (per biennium)
	Performance measures:
	2002-2003 actual: 18.5 million hits
	2004-2005 estimate: 30 million hits
	2006-2007 target: 33 million hits
(c) Improved dissemination of information in the Bosnian, Croatian and Serbian languages (*Note*: Bosnian, Croatian and Serbian are considered by the Tribunal as one language for the court proceedings)	(c) Reduction in the number of days required for dissemination of materials
	Performance measures:
	2002-2003 actual: 1 to 3 days
	2004-2005 estimate: 1 to 3 days
	2006-2007 target: 0 to 2 days
(d) Clients' needs for sound, comprehensive and timely advice on legal and related policy matters are met	(d) (i) International agreements negotiated and contracts on which advice is given
	Performance measures:
	2002-2003 actual: 110
	2004-2005 estimate: 105
	2006-2007 target: 110
	(ii) Administrative, host country statute and rules matters on which advice is given
	Performance measures:
	2002-2003 actual: 95
	2004-2005 estimate: 100
	2006-2007 target: 120
(e) Effective legal support to judges is provided	(e) Number of timely oral and written decisions and judgements
	Performance measures:
	2002-2003 actual: 3,663
	2004-2005 estimate: 2,500
	2006-2007 target: 1,250

(f) Successful compliance with the Tribunal's legal aid system	(f) Reduction in the number of cases in which supplemental payment is required in order to ensure a fair trial *Performance measures*: 2002-2003 actual: 12 2004-2005 estimate: 8 cases 2006-2007 target: 4 cases
(g) Improvement in the judicial support services provided to the Chambers, the Office of the Prosecutor and the defence counsel	(g) Increase in the level of client satisfaction *Performance measures*: 2002-2003: 60 per cent 2004-2005 estimate: 90 per cent 2006-2007 target: 95 per cent
(h) Increased effectiveness of administrative services	(h) Degree of satisfaction expressed by recipients of various administrative services *Performance measures*: 2002-2003: Not available 2004-2005 estimate: 90 per cent 2006-2007 target: 95 per cent

External factors

69. The Registry is expected to meet its objectives and expected accomplishments on the assumption that: (a) the States of the former Yugoslavia cooperate in the arrest and transfer of indicted persons to The Hague and in the provision of information; (b) there is normal functioning of the War Crimes Chamber of the State Court of Bosnia and Herzegovina and judiciaries in other countries of the former Yugoslavia to permit the referral of cases; and (c) there are no delays in the proceedings for reasons beyond the Tribunal's control, such as illness of the accused, unforeseen disclosure of material, requests for replacement of defence counsel, requests for review of cases already tried, other motions affecting the proceedings and the availability of witnesses to certify statements and provide testimony.

Outputs

70. During the biennium, the following outputs will be delivered:

(a) Victims and Witnesses Section: provision of safe transportation of witnesses from their residence to The Hague; liaison with States for exit and entry permits, travel documents, safe-conduct agreements and visas for pretrial and post-trial protection; provision of support services for the temporary and permanent relocation of witnesses; liaison with host Governments for protection; safe

accommodation and transportation of witnesses during trials; and implementation of the Tribunal's policies regarding the reimbursement of lost earnings;

(b) Defence counsel services: provision of access to legal assistance for suspects and accused persons; revision of claims of indigence from suspects and accused persons; and implementation of the directive on assignment of defence counsel and legal aid practices;

(c) Court management: implementation of procedures related to the confirmation, amendment or withdrawal of indictments, the issuing of arrest warrants, addressing of cases of failure to execute a warrant, the appearance of the accused, detention on remand and provisional release and procedures to obtain depositions; organization and scheduling of trials and other hearings, contempt of court cases and procedures relating to amici curiae, summons of witnesses and experts, record-keeping and procedures for the restitution of property in connection with compensation for victims; and procedures relating to appellate and review proceedings, pardons and commutation of sentences;

(d) Registry Advisory Section: negotiation of international agreements on the enforcement of sentences and the relocation of witnesses; liaison with the host country on the privileges and immunities of judges and staff; and the drafting of policy papers, directives and guidelines related to legal practice;

(e) Detention facility management: provision of a secure detention facility for detainees; implementation of the Tribunal's rules of detention and remand programme with regard to personal and official visits, the scheduling of exercise periods and provision of meals and securing incoming and outgoing phone calls and mail, as appropriate; the scheduling of duties of detention guards provided by the host Government; and cooperation with the host authorities to ensure that the detention facilities of the Tribunal are provided in accordance with existing agreements and with non-governmental organizations monitoring such facilities;

(f) Publications: publication of the annual *Yearbook* of the Tribunal, the basic documents of the Tribunal and transcripts of trials and decisions;

(g) Electronic, audio and video issuances: production and broadcast (in electronic format) of trial exhibits within the courts and broadcasting of time-delayed video of Tribunal proceedings to public areas of the Tribunal and real-time audio of Tribunal proceedings to the public gallery of the courtroom in English, French and Bosnian/Croatian/Serbian;

(h) Booklets, pamphlets and fact sheets: publication of the monthly bulletin of Tribunal activities, newsletters and brochures;

(i) Press releases: issuance of press releases to the local, national and international press regarding trial activities;

(j) Library services: provision of library services regarding international and national law relevant to the operations of the Tribunal for the use of judges, staff and defence counsel and provision of online information services to assist staff, in particular the legal officers and judges, with legal research and greater access to bibliographic information;

(k) Conference and language support: provision of simultaneous interpretation for all court hearings into and from English, French,

Bosnian/Croatian/Serbian and Albanian/Macedonian and during interviews of victims and witnesses; translation from and into English, French and Bosnian/Croatian/Serbian for the Registry, the courts and the Office of the Prosecutor; and transcripts of court proceedings in English and French for every hearing in the courtroom and the judges' plenary meetings;

(l) Administrative support: processing of financial documents; preparation of the proposed programme budget for the biennium 2008-2009 and annual performance reports for the biennium 2006-2007; exercise of budgetary control and post management in respect of assessed budget and extrabudgetary resources; formulation of draft administrative responses to external and internal oversight bodies; screening of applications for vacant posts; implementation of staff development and training programmes; arrangement of travel and issuance of tickets and vouchers for judges, staff members, witnesses and other persons; undertaking of property management and inventory control; implementation, operation and maintenance of the information technology infrastructure; purchasing and contracting of goods and services; and provision of a safe and secure environment for all VIPs, staff, visitors and detainees.

Table 8

Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2004-2005*	*2006-2007 (before recosting)*	*2004-2005*	*2006-2007*
Assessed budget				
Post	93 668.8	96 188.1	654	665
Non-post	111 899.9	103 324.0	—	—
Staff assessment	18 222.1	18 702.7		
Subtotal	**223 790.8**	**218 214.8**	**654**	**665**
Extrabudgetary	5 093.4	4 240.6	12	6
Total	**228 884.2**	**222 455.4**	**666**	**671**

71. The resource requirements of $218,214,800 provide for the 665 posts and various non-post requirements. The increase under posts ($2,519,300) and staff assessment ($480,600) reflects the inward redeployment of 11 posts from the Systems Support Unit of the Office of the Prosecutor Information and Evidence Section to the Registry's Information Technology Services Section and the adjustment for the inward redeployment of 13 posts from the Office of the Prosecutor in 2005.

72. The decrease in non-post requirements ($8,575,900) is due to reduced requirements, mainly under temporary assistance for meetings, general temporary assistance, overtime, consultants and experts, travel, contractual services, rental of premises, communications and miscellaneous services, supplies and equipment.

Table 9
Summary of follow-up action taken to implement relevant recommendations of the oversight bodies and the Advisory Committee on Administrative and Budgetary Questions

Brief description of the recommendation	*Action taken to implement the recommendation*
Advisory Committee on Administrative and Budgetary Questions (A/59/561)	
The Advisory Committee is concerned about the information it received from the representatives of the two Tribunals that the current freeze would have a significant negative impact on the completion strategy schedule. The Committee trusts that a way can be found to ameliorate the current staffing situation of the two Tribunals (para. 11).	The recruitment freeze, which was put in place in May 2004, was lifted by the Controller in January 2005. Since that date, the Tribunal has made every effort to fill all of its vacant posts. As at the end of June 2005, the vacancy rate was 8.7 per cent.
The Advisory Committee is also concerned about the fact that experienced security officers leave the Tribunals for other United Nations organizations and United Nations peacekeeping operations. This may adversely impact the security of staff and activities of the Tribunals. The Committee notes, for example, that the vacancy rate for security officers of the International Tribunal for the Former Yugoslavia was 14.2 per cent as at October 2004. The Committee requests that a way be found to improve the incumbency situation of security officers of the Tribunals (para. 12).	The departure of security officers continues to be of concern to the Tribunal, as other offices, particularly the Department of Peacekeeping Operations, continue to have more attractive and long-term employment possibilities. Nevertheless, the Tribunal has undertaken an intensive recruitment campaign and has lowered the vacancy rate to 10.5 per cent as at the end of June 2005.
Board of Auditors (A/59/5/Add.12)	
The Tribunal agreed with the Board's recommendation to review its procedures on deferred charges to ensure the completeness of the disclosure (para. 22).	The recommendation has been fully implemented. The Tribunal has reviewed its procedures as recommended. In preparing the financial statements for the year ended 31 December 2004, the Tribunal based the amounts related to deferred charges on the results of its own evaluation. The Tribunal's Finance Section and the Procurement Section now coordinate efforts to ensure the adequacy of the disclosure.
The Tribunal agreed with the Board's recommendations to liase with United Nations Headquarters in order to account for the liability related to judges' pensions and to plan for the	This issue, which was originally raised with the Office of Programme Planning, Budget and Accounts in October 2004, has now been included as part of a more comprehensive

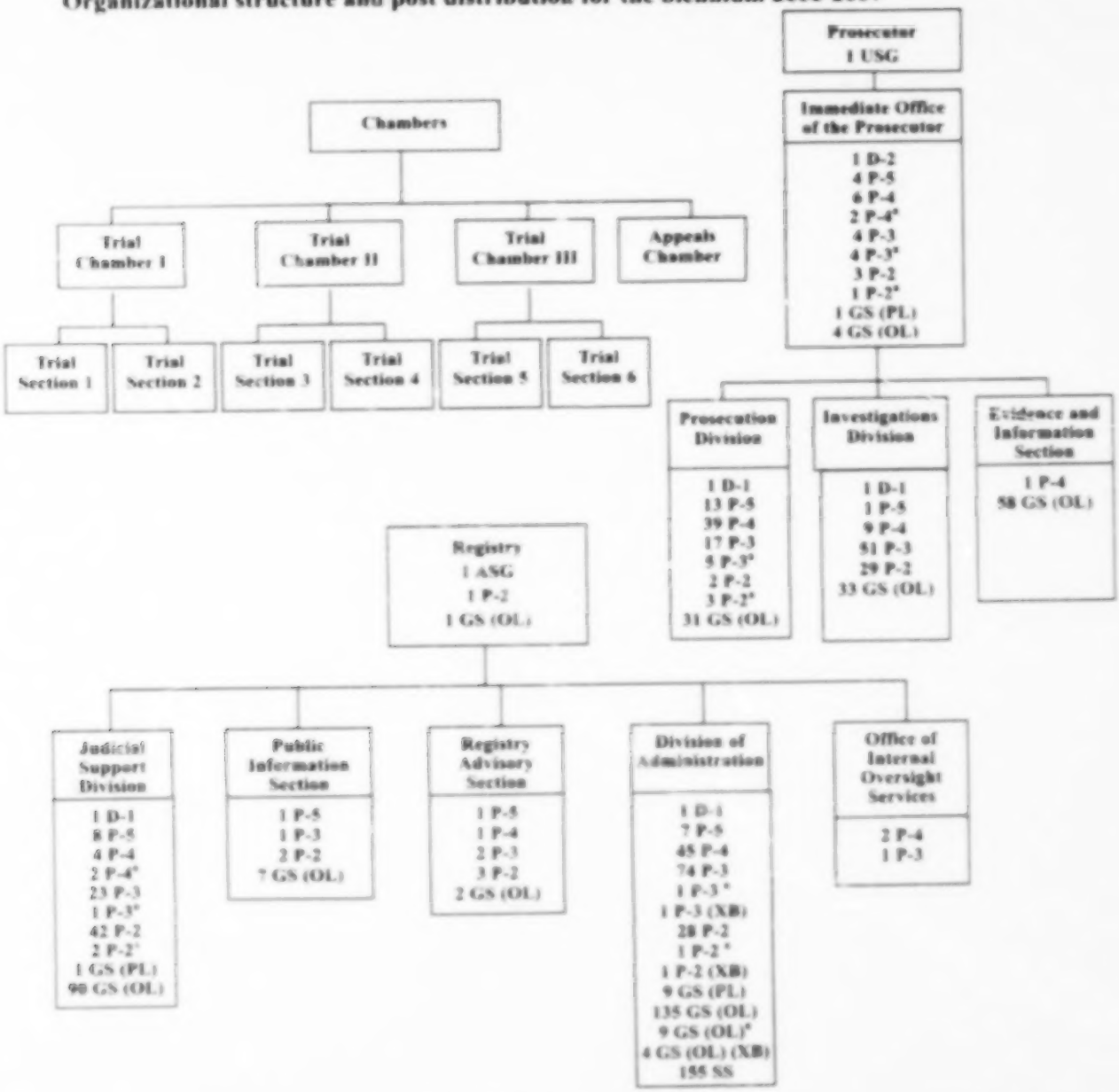
Brief description of the recommendation	*Action taken to implement the recommendation*
transfer of pension commitments to a permanent entity at the termination of the Tribunal (para. 27).	discussion of the Tribunal's legacy issues being addressed by the two Tribunals and Office of Legal Affairs. A report will be submitted to the General Assembly at its sixtieth session.
The Tribunal agreed with the Board's recommendation to further intensify its efforts to gain the cooperation of all concerned Member States and seek the assistance of the international community to place additional pressure on uncooperative Member States (para. 35).	The recommendation has been implemented. The Tribunal has and will continue to exert and intensify all possible efforts in this regard. The President and the Prosecutor have consistently included references to the need for the cooperation of Member States, in particular States of the former Yugoslavia, in statements they have issued, including speeches and press releases. In addition, both the President and the Prosecutor have submitted to the Security Council, in November 2004 (S/2004/897) and May 2005 (S/2005/343) reports, inter alia, on the level of cooperation obtained from Member States and seeking to enlist the support of the Council and the international community with respect to this specific issue. In order to obtain full cooperation from States of the former Yugoslavia, the President and the Prosecutor will continue to approach those States and regularly consult Member States and international and regional organizations on the matter. Recently, cooperation with States of the former Yugoslavia has improved markedly, as during the period January-June 2005, 20 accused were surrendered to the custody of the Tribunal. As a result, 10 accused remain at large. The increase in the number of indictees and fugitives, including very senior-level persons, transferred to the Tribunal can be attributed to the efforts exerted by the Tribunal.
The Board encourages the Tribunal in its action to further reduce the need for costly official translations (para. 53).	This recommendation has been fully implemented. The Tribunal is of the view that the references contained in the audit report with respect to the "dual translation" of documents are misleading. The Tribunal believes that it does have a strong system in place, which greatly reduces the chances of a repeated erroneous translation of documents. The creation of the Office of Document Management has proven to be an effective

Brief description of the recommendation	Action taken to implement the recommendation
	measure to ensure that duplicate translation requests from different sources (the Office of the Prosecutor, the Chambers or defence counsel) are minimized. However, the Tribunal strongly believes that the initial process of having only an informal translation prepared actually saves the Organization financial resources. The informal translation, which is accomplished by non-accredited General Service staff, allows the Office of the Prosecutor and the Chambers to make a determination whether to proceed with the more expensive formal translation or not. In addition, the defence counsel Chambers has determined in many instances that an informal translation of some (non-critical) documents is in fact permissible for use in the courtroom. It is estimated that the streamlining of translation requests and processes brought about by the establishment of the Office of Document Management will generate monetary savings.
The Tribunal agreed with the Board's recommendations to (a) finalize the annex to the memorandum of understanding setting out the services to be shared and invoiced within the United Nations House in Sarajevo; (b) endeavour to have the building's management transferred to another entity before the Tribunal closes its Sarajevo office; and (c) continue to liaise with United Nations Headquarters and other international entities to improve the building's occupancy rate (para. 58).	This recommendation has been implemented: (a) The annex to the memorandum of understanding was finalized on 29 March 2004. Copies of the document were provided to the resident and external auditors. (b) It will be recalled that from the outset, the Tribunal accepted responsibility to serve as lead agency under the memorandum of understanding only to 31 December 2005, not 2008. The Tribunal has regularly requested the assistance of the Under-Secretary-General for Management and the Controller to help identify another United Nations agency willing to assume responsibility for the memorandum of understanding in 2006. However, it must be noted that, under the existing arrangement the Tribunal's administrative responsibility is limited to oversight. The European Union Police Mission assumes all responsibility for day-to-day operations. The result is budget-neutral for the Tribunal from a support standpoint and the field office is

Brief description of the recommendation	Action taken to implement the recommendation
	provided with secure office space of reasonable quality at a very competitive rate; (c) It is in the best interest of all occupants for all vacant space to be rented by an appropriate agency. The Tribunal periodically requests the assistance of the Department of Management to inform other United Nations agencies about the availability of space at United Nations House in Sarajevo. Since the time of the audit observation, the two other building occupants, the European Union Police Mission and the European Union Monitoring Mission, have increased the amount of space they occupy and their pro rata share of expenses. In December 2004 the Tribunal returned 400 square metres of space to the Building Management Committee, thus reducing its share of operating expenses.
The Tribunal agreed with the Board's recommendation to consider sharing software for standard data-processing applications on an inter-agency basis (para. 60).	This recommendation has been fully implemented. The Tribunal routinely examines the e-Asset database of the Information Technology Services Division when considering the purchase or development of software applications.
The Tribunal agreed with the Board's recommendation to explore, with the United Nations Secretariat, the possibility of extending the medical standards for staff members to candidates for judgeship, which is a non-United Nations staff position (para. 62).	This issue has been raised with United Nations Headquarters. It should be noted that existing procedures for the selection of judges, who are nominated by Member States, do not include any reference to medical standards. Any change in procedure would require General Assembly approval. The Tribunal's Legal Advisory Section will pursue this issue further with its counterparts in the Office of Legal Affairs at United Nations Headquarters.
The Board recommends that the Tribunal take further steps to comply with strict overtime rules (para. 66).	The recommendation has been fully implemented. Following the report of the Board of Auditors, the Tribunal asked the Office of Internal Oversight Services resident auditors to conduct a review and evaluation of the overtime usage and procedures in place. On this basis, an information circular was

Brief description of the recommendation	*Action taken to implement the recommendation*
	issued outlining revised procedures for the application, justification and usage of overtime within the Tribunal. Since then, further steps have been taken to comply with strict overtime rules.
The Tribunal agreed with the Board's recommendation to reinforce its monitoring of training activities (para. 69).	The recommendation has been implemented. The Professional post for training, approved by the General Assembly in the context of the 2004-2005 budget, is in the process of recruitment. Since the time of the audit, the Tribunal has prepared an evaluation of the training conducted during 2004. Furthermore, the training plan for 2005 was prepared and was issued early in 2005. The Tribunal's training activities continue to be closely monitored, with detailed statistics being recorded by gender and grade.
While commending the Tribunal for action taken on external corruption and fraud risks, the Board recommended that it develop a plan against the risk of internal corruption and fraud, including fraud-awareness initiatives, furthering its recent coordination with the United Nations Administration in order to obtain the benefit of best practices (para. 74).	This recommendation is in the process of being implemented. The Tribunal has completed training for specific individuals responsible for requesting the use of consultants, individual contractors and contracts. An anti-fraud training programme is under development by the Department of Management in New York. Once finalized, the Tribunal will ensure that the programme is made available to all its staff.

International Tribunal for the Former Yugoslavia
Organizational structure and post distribution for the biennium 2006-2007



Abbreviations: USG, Under-Secretary-General; ASG, Assistant Secretary-General; GS (PL), General Service (Principal level); GS (OL), General Service (Other level); XB, extrabudgetary; SS, Security Service.

* Redeployed.